

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT OF CALIFORNIA  
3 WESTERN DIVISION

4 THE HON. JUDGE ANDRÉ BIROTTE JR., JUDGE PRESIDING

5  
6 THUNDER STUDIOS, INC.; )  
RODRIC DAVID, )  
7 )  
PlaintiffS, )  
8 )  
vs. ) NO. 17-CV-00871-AB  
9 )  
CHARIF KAZAL; TONY KAZAL; )  
10 ADAM KAZAL; AND DOES 1 to 100, )  
INCLUSIVE, )  
11 )  
Defendants. )  
12 )

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15  
16 JURY TRIAL - DAY 3  
17 (8:49 a.m. to 12:31 p.m.)  
18 Los Angeles, California  
19 Monday, December 10, 2018  
20  
21  
22

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## I N D E X

## PROCEEDINGS:

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PLAINTIFFS '  
WITNESS

DIRECT CROSS REDIRECT RECROSS VOIR  
DIRE VOL

MICHAEL HAMMOND 20 29

DEFENDANTS '  
WITNESS

DIRECT CROSS REDIRECT RECROSS VOIR  
DIRE VOL

CHARIF KAZAL 34 81 109 110

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## Exhibits

## Received

43 Printout 75

39 Reprint of an Article 106

1 Los Angeles, California; Monday, December 10, 2018;

2 8:49 a.m.

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4 THE CLERK: Calling civil case 17-871, Thunder  
5 Studios, Inc., versus Charif Kazal, et al.

6 Jury Trial Day 3.

7 Counsel, please state your appearance.

8 MR. WIENER: Good morning, Your Honor.  
9 Seth Wiener for plaintiffs, Thunder Studios, Inc., and  
10 Rodric David.

11 MR. GEBELIN: Good morning, Your Honor.  
12 Steven Gebelin also for plaintiffs.

13 MR. TAYLOR: Good morning, Your Honor.  
14 Benjamin Taylor on behalf of defendants Charif Kazal, Tony  
15 Kazal and Adam Kazal.

16 MS. BANI-ESRAILI: Good morning, Your Honor.  
17 Diane Bani-Esraili for the defendant.

18 THE COURT: Good morning to you all. I understand  
19 there are some issues that we need to discuss this morning.

20 Mr. Taylor?

21 MR. TAYLOR: Yes, just briefly, Your Honor.

22 As the Court will recall, when Mr. David was on  
23 the stand, I asked him during his cross-examination about a  
24 lawsuit involving Mr. Martel. And we had a sidebar and  
25 Your Honor addressed that with us. I do have a transcript

1 of the hearing from that case where the verdict was read  
2 into the record, so I don't know if Your Honor wants to take  
3 a look at that.

4 THE COURT: Can I take a look -- I assume you have  
5 copies for opposing counsel or --

6 MR. TAYLOR: I have three copies, yeah.

7 THE COURT: Give one to opposing counsel and let  
8 me take a look at it as well.

9 MR. TAYLOR: The part I'm referring to starts on  
10 page four, line 11 on page 4.

11 THE COURT: Mr. Taylor, can you refresh my  
12 recollection?

13 What was the nature -- to the extent you know,  
14 what was the nature of this litigation?

15 MR. TAYLOR: Mr. Martel, as Mr. David testified,  
16 was vice president of Thunder TV at Thunder Studios, and  
17 there were certain -- my understanding -- of course, I  
18 wasn't involved in the case, but my understanding is that  
19 there were certain representations made by Thunder Studios,  
20 particularly by Mr. David, in respect to Mr. Martel's  
21 relationship with Thunder Studios. And it was a short-lived  
22 relationship apparently, and litigation resulted arising out  
23 of, I guess, false promises that were made and contracts  
24 that were not performed. And there was a claim -- I believe  
25 it's addressed on page 5 -- for conversion of Mr. -- page 5

1 and 6 of Mr. Martel's property.

2 Mr. Gebelin was counsel for Thunder Studios and  
3 Mr. David in that case, so he can probably shed more light,  
4 but that's my understanding of the general nature.

5 Obviously, as you read through the transcript,  
6 there are employment-related claims and things that are not  
7 pertinent for our purposes, but with respect to fraud,  
8 misrepresentation and conversion, I think -- that's what I'm  
9 focusing our attention on.

10 THE COURT: Mr. Gebelin, you're standing up, so  
11 I'm assuming you have something you wish to say in response?  
12 And at least according to Mr. Taylor, you were there, so you  
13 might have some more insight as it relates to this matter.

14 MR. GEBELIN: I was there, Your Honor. Counsel of  
15 record for Thunder Studios in the matter that we're talking  
16 about.

17 First, this is a jury verdict. I point out,  
18 there's an internal inconsistency in the verdict regarding  
19 fraud. The answer to Question 9 whether or not there was a  
20 false representation of fact is "Yes." But then in response  
21 to Question 13 on page 5 at line 11: Did Thunder Studios or  
22 Rodric David intend to perform the promise when they made  
23 it? Yes. So there's an internal inconsistency in this  
24 verdict that hasn't been able to be tested yet based on the  
25 status of the case.

1           THE COURT: Remind me again. The status, it's up  
2 on appeal, or are we in post-trial motions as it relates to  
3 the case?

4           MR. GEBELIN: The status of the case is it's in  
5 between phase one and phase two still. There's no final  
6 judgment. There are no post-trial motions yet because we're  
7 still waiting for a final verdict on phase two.

8           THE COURT: From the judge?

9           MR. GEBELIN: From a jury. There has to be a  
10 second jury trial --

11          THE COURT: You haven't had that trial yet?

12          MR. GEBELIN: The second phase of the jury trial  
13 has not happened yet. So there is not a complete verdict.  
14 The case is not complete. There has not even been a chance  
15 to file post-trial motions because the trial has been  
16 basically on hiatus for over a year now at this -- almost a  
17 year now at this point.

18          THE COURT: And perhaps as an aside, in state  
19 court, the gap between a verdict and phase two can last up  
20 to a year?

21          MR. GEBELIN: This is an unusual instance for  
22 certain. Our lead trial judge passed away two months after  
23 the original jury verdict, actually less than two months.  
24 Following that, we've had an attempt at another punitive  
25 damages trial in this past June that was declared a mistrial

1 about halfway through that trial.

2 THE COURT: What was the basis for that? I'm  
3 sorry. Maybe this is apropos. It seems like there's a lot  
4 of bad luck going around here.

5 MR. GEBELIN: Again another instance of bad luck,  
6 Your Honor. The initial jury estimate for that case was  
7 three or four days. After about three days of trial, the  
8 parties and the judge realized that we were not going to  
9 conclude nearly close to on time, and we polled the jury and  
10 realized we would probably lose more jury members than we  
11 needed by the time we concluded. So the judge, rather than  
12 having us try to squeeze things in, went ahead and declared  
13 a mistrial at that point.

14 THE COURT: And who was the judge?

15 MR. GEBELIN: I'm sorry, Your Honor. That name's  
16 escaping me at the moment. It's in Long Beach at the state  
17 court.

18 THE COURT: Do you have any other date set for the  
19 trial?

20 MR. GEBELIN: There's not another date set yet for  
21 phase two trial.

22 THE COURT: Mr. Taylor, look, I still have some  
23 heartburn about this because based on what Mr. Gebelin is  
24 representing, there's no judgment. I mean, a jury has made  
25 a decision, but the trial's not over. Obviously, it's hard



1 for me to be articulate. I mean, the trial's not over and  
2 you're asking the jury -- you want to inquire of  
3 Mr. David -- I guess the question is: Is it a fact that a  
4 jury has found X, Y, and Z, that you've made  
5 misrepresentations to someone else? I'm not sure I can do  
6 that when no -- a final judgment has not been entered in the  
7 case.

8 What's your response? I may be missing something.

9 MR. TAYLOR: It's true, Your Honor, that there's a  
10 phase two so there's not a final judgment entered, but phase  
11 two is punitive damages which arise from the fraud and the  
12 conversion. If there had been a final judgment entered on  
13 this verdict, counsel would say: Well, Your Honor, we're  
14 going to appeal or, Your Honor, there's still a post-trial  
15 motion --

16 THE COURT: True. And he could say that, but I  
17 would say there's a final judgment. To me, that is my point  
18 is that there's no judgment in the case. In some respects,  
19 the case has bad luck, generally, but now bad luck, I guess,  
20 transfers over here because I don't have a judgment.

21 And you're right, plenty of lawyers have said:  
22 Oh, it's pending appeal, but at least there's a judgment  
23 that has been entered in the case and the judgment is based  
24 on the verdict. Right now we don't have a judgment being  
25 entered. I'm not aware of any case law that suggests that I

1 can introduce something that has not been finalized by the  
2 Court. It's no different in my criminal cases or other  
3 cases where we've got a judgment. That's been the finding.

4 And until and unless there's a different finding,  
5 that's the rule -- that's the state of the law as it relates  
6 to the state of the case. So it seems, to me, absent a  
7 judgment, I don't believe you can inquire as it relates to  
8 that.

9 MR. TAYLOR: Well, I would just say, Your Honor, I  
10 don't know that Rule 608 includes or has been interpreted to  
11 include such a requirement, but I certainly understand what  
12 the Court is saying.

13 On the flip side, it would seem that if a jury  
14 heard all the evidence and conducted a trial and found that  
15 there was a misrepresentation and that there was conversion,  
16 that certainly is at least some suggestion of character for  
17 untruthfulness under 608.

18 THE COURT: All right. Mr. Gebelin, anything  
19 further you wish to add?

20 MR. GEBELIN: Just one entire point. Another sort  
21 of inconsistency and why it's not necessarily probative and  
22 probably it's much more prejudicial in this case. The  
23 jury's verdict seems to indicate there's conversion but also  
24 indicates there's no damages arising from the conversion in  
25 this case. That's the response to Question Number 28 on

1 page 8, line 5.

2 THE COURT: Again, I appreciate -- you're parsing  
3 through the verdict. To me, that's less of an issue, quite  
4 frankly. More of the issue is the fact that a judgment has  
5 not been entered. And, then, as a related aside to the  
6 Court, at least am I to assume that Thunder Studios and  
7 Rodric David are one in the same throughout this trial  
8 because I thought -- of interest to me as a third party not  
9 knowing anything about the case, it says: Did Thunder  
10 Studios and/or Rodric David make false representations of  
11 fact or promise Martel Systems and/or Kerry Martel.

12 To me, that suggests a number of possible  
13 combinations. The jury might have found that Thunder  
14 Studios made some sort of false representation separate from  
15 Mr. David or Mr. David made the false representation and it  
16 was made to either Martel Broadcast Systems on the one hand  
17 and/or Kerry Martel.

18 Should I assume that Thunder Studios and  
19 Rodric David were one in the same for purposes of this  
20 trial, the preceding trial?

21 MR. GEBELIN: Not for purposes of the trial, but  
22 the statements that were offered at issue came directly from  
23 Mr. David.

24 So the statements at issue came from Mr. David,  
25 not some other person at Thunder Studios. So for the

1 purpose of the verdict form, that was a simplification that  
2 was made.

3 THE COURT: Okay. Thank you.

4 Again, the ruling still stands as it relates to  
5 that. Others may disagree, but I'm concerned about allowing  
6 questioning as it relates to a verdict that has not been  
7 entered into the record in a pending trial. So based on  
8 that, I'm going to deny the request to inquire of the  
9 witness as it relates to that. I'll make sure our courtroom  
10 deputy hands the transcript back to you.

11 Anything further we need to discuss, Mr. Taylor?

12 MR. TAYLOR: Yeah, just one other point,  
13 Your Honor.

14 My understanding is that the plaintiff wishes to  
15 call Mr. Hammond, who, I guess, has flown in from Australia.  
16 And, I guess, my concern is that we're talking about a  
17 witness who obviously doesn't live here and wasn't here.  
18 And I'm concerned about cumulative testimony and testimony  
19 from a witness who doesn't have personal knowledge and  
20 consuming the Court's time today with -- and our time  
21 with --

22 THE COURT: You're concerned about consuming the  
23 Court's time at 9:20, when the jury's supposed to be here?

24 MR. TAYLOR: Well, our time as well. I know  
25 Your Honor wants to get the case going today. So I guess

1 the question is: Is there any way we can sort of focus his  
2 testimony on whatever is new because we've heard -- I think  
3 we've heard about what the elements are --

4 THE COURT: I appreciate you trying to help the  
5 Court.

6 Let me ask, Mr. Wiener, what's the proffer as it  
7 relates to the testimony of Mr. Hammond?

8 MR. WIENER: The areas that will be addressed by  
9 Mr. Hammond are, first of all, that the articles in the  
10 Sydney Morning Herald are reliable sources.

11 I should preface this by saying that Mr. Hammond's  
12 testimony is estimated to be at 20 minutes to 30 minutes, at  
13 most.

14 Mr. Hammond also attended the ICAC hearing and was  
15 threatened by Charif Kazal and will testify about that.

16 THE COURT: Threatened about what?

17 MR. WIENER: For giving testimony -- for  
18 accompanying Mr. David to the hearing.

19 THE COURT: And who is Mr. Hammond?

20 MR. WIENER: Mr. Hammond is an Australian citizen,  
21 a friend of Mr. David and was another person who was  
22 essentially victimized in this harassment campaign.

23 THE COURT: Hold on one second. Just so I'm  
24 clear. Mr. Hammond is not a party to this case; correct?

25 MR. WIENER: Correct.

1 THE COURT: He's going to testify -- did he  
2 observe some of the things that occurred with Mr. David  
3 or --

4 MR. WIENER: Yeah, he attended the ICAC hearing.  
5 He also removed --

6 THE COURT: Let me stop you there. I want to make  
7 sure I'm following you. He attended the ICAC hearing.

8 What happened to Mr. David at the ICAC hearing, if  
9 anything?

10 MR. WIENER: Mr. David also presented witness  
11 testimony and, resultingly, Mr. Hammond was threatened by  
12 Charif Kazal for providing support for Mr. David.

13 THE COURT: And so how is that relevant to this  
14 case where Mr. David has gone on at length indicating all  
15 the issues, his fear, the newspaper articles -- I'm sorry,  
16 the website, the spraying of all the documents in his  
17 neighborhood, how is Mr. Hammond's testimony relevant to  
18 that?

19 MR. WIENER: Mr. Hammond will also testify that he  
20 personally observed the Australian posters and bands, and  
21 what he observed. Also that he removed them. That  
22 testimony will lend itself to the cost of this campaign  
23 which is a relevant issue.

24 THE COURT: How is it relevant? He can testify:  
25 "I live in Australia. I woke up one morning, I saw all this

1 stuff sprayed around the neighborhood" to corroborate what  
2 Mr. David said. Okay?

3 And what else is he going to say?

4 MR. WIENER: He'll corroborate that testimony. He  
5 will also testify about the emotional impact of the  
6 Australian campaign on Mr. David, which is a substantial  
7 issue in this case.

8 THE COURT: In what sense? Walk me through that.  
9 I have some concerns about some of the things you've said.  
10 I don't see how threats against Mr. Hammond are relevant to  
11 this case, and to the extent they are, I worry that it's  
12 more prejudicial than probative. This case is about  
13 Mr. David and his issues with Mr. Kazal. Bringing in  
14 another witness to say, "I was also threatened," I think is  
15 more prejudicial than probative.

16 MR. WIENER: He was threatened for offering  
17 support to Mr. David. It goes to the defendants' modus  
18 operandi.

19 THE COURT: Respectfully, I disagree. So he's not  
20 going to be allowed to testify as it relates to any threats  
21 that Mr. Kazal allegedly, or one of the Kazals, allegedly  
22 made against Mr. Hammond. If he wants to testify, "I came,  
23 and I saw all this stuff there," all this stuff in  
24 Australia, that's one thing.

25 If he wants to say, "I saw the impact that it had

1 on Mr. David," I don't know what that would entail, but  
2 that's another thing.

3 But if he's going to get up and say, "The Kazals  
4 threatened me," I think that's more prejudicial than  
5 probative. This case isn't about what the Kazals did to  
6 other people, it's what they did to Mr. David.

7 MR. WIENER: I respectfully disagree, Your Honor.  
8 It does involve their attempts to threaten Mr. David by  
9 going after his loved ones, friends, his employees but --

10 THE COURT: Wait. Where does Mr. Hammond fit into  
11 this? I mean, it's one thing if -- we had Mr. Kolesa, if he  
12 came and said, "I went to work and these people were  
13 bothering me," et cetera, that's one thing. What's the  
14 connection between Mr. Hammond and Mr. David and this ICAC  
15 hearing? What does Mr. Hammond do? What's his relationship  
16 to Mr. David as it relates to work or otherwise?

17 MR. WIENER: Mr. Hammond is a long-time friend of  
18 Mr. David for about 15 years before the ICAC -- attends the  
19 ICAC hearing with Mr. David to show support, and then is  
20 threatened by Mr. Kazal during the course of the hearing.

21 THE COURT: Tell me more about this alleged  
22 threat.

23 MR. GEBELIN: Sure. Mr. Kazal ushers Mr. Hammond  
24 into a separate room and tells him that Mr. Kazal's  
25 informants have told him that Mr. Hammond is all part of a



1 conspiracy against Mr. Kazal. And Mr. Kazal also obstructs  
2 Mr. Hammond from leaving this room.

3 Mr. Hammond then testifies about this event to the  
4 ICAC hearing which proceeds to make findings adverse to  
5 Mr. Kazal.

6 THE COURT: Findings adverse to Mr. Kazal about  
7 his interactions with Mr. Hammond?

8 MR. WIENER: Mr. Hammond can testify what  
9 statements the ICAC made about that, but the specific  
10 findings against Mr. Kazal did not relate to that.

11 THE COURT: Did not relate to Mr. Hammond;  
12 correct?

13 MR. WIENER: Correct.

14 THE COURT: I'm sorry, Counsel. I mean, we're  
15 just going to have to agree to disagree. We're getting far  
16 afield here. This is far more prejudicial than probative.  
17 If he's going to testify about what he saw with the flyers  
18 all around the neighborhood, that's one thing. If he wants  
19 to testify as to what he observed as to the impact,  
20 emotional impact on Mr. David, that's another thing.

21 Again, I draw a distinction between someone like  
22 Mr. Hammond and Mr. Kolesa who's at work and he sees  
23 protestors. I'm making some of this up. Let's say he saw  
24 people climbing over the fence of Thunder Studios and  
25 causing a ruckus, that's one thing, but it sounds like

1 Mr. Hammond, he went there to show emotional support and in  
2 the course of the hearing he says that Mr. Kazal pulled him  
3 to the side and said, "You're part of this conspiracy, too,"  
4 and wouldn't let him out of the room. But, obviously, at  
5 some point, he got out of the room. And then it sort of  
6 ends from there.

7 Is there some sort of campaign against the  
8 Hammonds after that fact that somehow says because you  
9 showed up at ICAC, I'm going to now start papering your  
10 neighborhood or have cars driven around your neighborhood or  
11 something along that line?

12 MR. WIENER: The only further campaign would be is  
13 Mr. Hammond is involved in the media and works for a  
14 subsidiary of Fairfax Media which publishes the Sydney  
15 Morning Herald which Mr. Kazal has blasted in his online  
16 posts, but I would understand if the Court believes that's  
17 too tangential.

18 THE COURT: Yeah, you read my mind. Again,  
19 Mr. Hammond can testify as to his relationship with  
20 Mr. David, what he observed as it relates to the flyers. To  
21 the extent he has any observations about the emotional toll  
22 it took on Mr. David, he can testify to those things, but  
23 I'm not going to allow him to testify to any alleged threats  
24 that he suffered in some room in an ICAC hearing.

25 All right.

1 MR. WIENER: Understood, Your Honor.

2 THE COURT: Anything further?

3 MR. WIENER: No, Your Honor.

4 THE COURT: Mr. Taylor?

5 MR. TAYLOR: I'm not sure how a witness in  
6 Australia would have personal knowledge of the emotional  
7 toll, and it's cumulative because they've already testified  
8 to it, but I understand if the Court --

9 THE COURT: Your objection is noted, but that's  
10 the ruling of the Court.

11 So we're going to bring in the jury.

12 (Pause in the proceedings.)

13 (Jury in.)

14 THE COURT: All right. Well, good morning. I  
15 hope you all had a wonderful weekend.

16 We are ready to resume trial.

17 So with that, Mr. Wiener, you may call your next  
18 witness.

19 MR. WIENER: Thank you, Your Honor. We'll call  
20 Michael Hammond, who is waiting in the hallway.

21 THE COURT: All right.

22 THE CLERK: Please raise your right hand.

23 MICHAEL HAMMOND, PLAINTIFFS' WITNESS, SWORN

24 THE CLERK: Thank you. Please be seated.

25 Please state and spell your name for the record.

1 THE WITNESS: Michael Hammond, H-a-m-m-o-n-d.

2 THE COURT: All right. You may proceed.

3

4 DIRECT EXAMINATION

5 BY MR. WIENER:

6 Q Good morning, Mr. Hammond.

7 Can you state your occupation.

8 A I'm a broadcaster.

9 Q Where do you reside?

10 A Sydney, Australia.

11 Q How do you know the David family?

12 A Our eldest children were born on the same day, so we  
13 became friends through the birth of our -- start of our  
14 families.

15 Q And how long have you known the David family?

16 A Since 2003.

17 Q And have you remained close to them during that time?

18 A Yes, we have.

19 Q What's the reputation of the David family in Australia?

20 A They're a family of very well-known business people.

21 Rodric's father has been very well known as a titan of  
22 business in Australia.

23 Q Are you familiar with the Kazal family?

24 A I am.

25 Q Are you aware of any articles published in the Sydney

1 Morning Herald concerning the Kazals?

2 A Numerous articles, yes.

3 Q Do you consider the Sydney Morning Herald a trusted  
4 newspaper?

5 A Absolutely. It's -- it's an instrument of record.  
6 It's been published continuously since the 1830s in Sydney.

7 Q Do you know who publishes the Sydney Morning Herald?

8 A It's Fairfax Media is the name of the publication.

9 Q Is Fairfax Media a publically held company?

10 A Yes, it is.

11 Q Do you know if Mr. David has any ownership interest in  
12 Fairfax Media?

13 A Not that I'm aware of, no.

14 Q Do you know if he has any influence over what's  
15 published in the Sydney Morning Herald?

16 A No, I would say no.

17 Q Did you become aware of any stalking conduct that was  
18 being committed against the David family?

19 MR. TAYLOR: Objection, Your Honor.  
20 Argumentative.

21 THE COURT: As phrased. Sustained. Please  
22 rephrase it.

23 BY MR. WIENER:

24 Q Did any -- did you learn if any of the David family was  
25 being followed?

1 MR. TAYLOR: Lacks foundation.

2 THE COURT: If he knows, he may answer.

3 THE WITNESS: Oh, yes, yes, I am. I'm aware.

4 BY MR. WIENER:

5 Q How did you become aware of that?

6 A It commenced as soon as Rodric and his family returned  
7 to live in Sydney from the UAE. There was an incident where  
8 Rodric was followed through the streets of the central  
9 business district of Sydney by a number of the Kazal family,  
10 being harassed and cajoled as he was walking from a  
11 restaurant home, and Rodric told me about it immediately the  
12 day it happened.

13 MR. TAYLOR: Your Honor, move to strike. Hearsay  
14 and lacks personal knowledge.

15 THE COURT: It is hearsay, Counsel. Sustained and  
16 stricken.

17 BY MR. WIENER:

18 Q All right. Did you become aware that the David family  
19 moved to California?

20 A Yes.

21 Q Do you know why they moved?

22 A Because they were scared.

23 Q Do you know why they were scared?

24 A They were scared of the harassment and continuing  
25 threats that they were receiving.

1 Q Do you know if it's ever suggested to the David family  
2 that they might want to go into a witness protection  
3 program?

4 A Yes, I do.

5 Q How were you aware of that?

6 A I was involved. I was called as a witness by the ICAC,  
7 which is the Independent Commission Against Corruption in  
8 New South Wales, and part of that process they were put  
9 under the care of the ICAC whilst the hearing was taking  
10 place. And I was present when they were offered witness  
11 protection.

12 Q Is it correct that the David family did move to  
13 California?

14 A It is.

15 Q Was that an easy decision for them?

16 A No. It was a very difficult decision. Their  
17 children -- they had to leave their whole life. All their  
18 extended family, all their friends, all their support  
19 network. They had to pick up and move holus-bolus to the  
20 other side of the world.

21 Q Let's fast forward to October 2016. Did you become  
22 aware of posters and signs that were posted in Sydney  
23 concerning Mr. David?

24 A Yes, I did. I remember one morning, my daughter came  
25 running back to the house, she and my youngest son had left

1 to go to school, and a few minutes later my daughter came  
2 running back to the house saying, "Daddy, daddy, there's  
3 pictures of Uncle Rodric all over, every pole. Why is Uncle  
4 Rodric's face everywhere?"

5 And I went outside, I could not believe what I  
6 saw. On every telegraph pole in our street, the next  
7 street, all the way, there was photos of Rodric plastered  
8 all over telegraph poles, every street in the neighborhood.

9 Q What did it say on the sign, posters?

10 A The thing I remember was full color photographs of  
11 Rodric's face, "Criminal," "Thief," "Adam Kazal," "Care of  
12 Adam Kazal" was at the bottom. Just a poster just defaming  
13 my friend.

14 Q Do you know how widespread in Sydney the posters were  
15 placed?

16 A In my neighborhood, they were every street for five or  
17 six streets until the kids' bus stop. They were everywhere.  
18 Then continually -- my suburb is about ten kilometers from  
19 the CBD, so through -- and basically through what's known as  
20 the entire eastern suburbs of Sydney, all the way through to  
21 the city. I was aware of them in Point Piper, Valeria.  
22 These are all suburbs adjacent to where I live.

23 Q Do you know if other members of Mr. David's family  
24 lived in the same approximate area?

25 A Yes. One of Rodric's brothers lived about 500 meters



1 from my home, just down the street, so -- Braden. So Braden  
2 was aware of them as well. They were in his street too.

3 Q Did you receive any flyers concerning Mr. David?

4 A Yes. There were also pamphlets that had been put into,  
5 I assume, everybody's letter box. There was one in mine,  
6 there was one in Braden's letter box as well. Other friends  
7 of mine had them placed in their letter boxes.

8 THE COURT: Just so there's no confusion, the  
9 litter (sic) box is equivalent to U.S. mailbox?

10 THE WITNESS: Correct.

11 THE COURT: I just want to make sure no one  
12 thought what litter box might mean in the U.S.

13 THE WITNESS: Letter box.

14 THE COURT: Oh, letter. I'm sorry. My hearing is  
15 getting bad. Sorry.

16 You're from Texas?

17 THE WITNESS: No, I'm from Sydney.

18 THE COURT: I'm joking. I'm joking. I'm sorry.  
19 Letter box. I'm sorry.

20 THE WITNESS: Letter box.

21 BY MR. WIENER:

22 Q Did you assist in removing the posters?

23 A Yes, I did, yes. With Braden and with other friends.  
24 I got a -- from my home and went and started cutting these  
25 things down from the street poles.

1 Q Who's Braden?

2 A Braden is Rodric's brother.

3 Q How many brothers does Mr. David have?

4 A Four. Three brothers. There's four sons.

5 Q How long did you spend removing the posters?

6 A Most of the morning.

7 Q Were they easy to remove from the poles?

8 A No, I had to -- once I got over the shock of seeing  
9 them everywhere, it was then a matter of working out how to  
10 access them. I had to go get a step ladder, a knife to be  
11 able to cut through the tape that had been wrapped around  
12 them. Each one took a few moments, a few minutes to take  
13 down.

14 Q Did you let Rodric know about this?

15 A Of course, I did.

16 Q What was his reaction?

17 A He was stunned. He didn't know -- I mean, he didn't  
18 know what to say.

19 Q Did he become emotional?

20 A Yes.

21 Q Can you describe that to the jury?

22 A He was tearful. He cried. And it was very distressing  
23 because he just -- he was at his wits' end. He said, "What  
24 am I left to do?" He said, "I moved all the way to the  
25 other side of the world. This is relentless. These people

1 just won't leave us alone. They won't stop. They won't  
2 stop."

3 Q Did you give any advice or recommendations to Mr. David  
4 on what to do?

5 A I tried to tell him that everything would be okay. I  
6 tried to reassure him as a friend, but I too at that stage  
7 had -- I just had no idea -- if I were in Rod's shoes, I had  
8 no idea what I would do for my family in the circumstances.  
9 It was just -- this had been going on for years now. It was  
10 relentless, relentless.

11 Q Did you recommend to Mr. David that he adopt any  
12 security measures?

13 A I knew that Rod had been advised by others that the  
14 Kazals had become aware of where he was living, where the  
15 children were at school, and I said that given what's  
16 happening in Sydney, he should, perhaps, be wary of how  
17 things were here at his home here in Los Angeles, yes.

18 Q And did you recommend that he implement any specific  
19 security measures?

20 A Yes.

21 Q What were those?

22 A I suggested that he should have some sort of protection  
23 at home.

24 Q Did Mr. David say if he would follow your advice?

25 A He told me that he would be upgrading the alarm

1 systems, and that they would have security at the house.

2 Q Do you recall if -- did you have any subsequent  
3 discussions with Mr. David later in 2016?

4 A Yes, yes, I would have.

5 Q Did you ever see a van in Sydney?

6 A Yes, I did.

7 Q Can you describe for the jury what the van said?

8 A The van was a people mover-type vehicle. It had much  
9 the same information as was on the pole posters. The entire  
10 van had been wrapped in a photo of Rodric, "Criminal,"  
11 "Thief," similar words. And at the bottom was: "Care of  
12 Adam Kazal," at the bottom of the van on both sides of this  
13 vehicle. It was driven around the CBD, the downtown area of  
14 Sydney for hours on end for a number of days.

15 Q Have you observed any long-term effects in Mr. David's  
16 emotional psyche as a result?

17 A Yes.

18 Q Can you describe that, please?

19 A From being a very gregarious, outgoing person, he's  
20 become a little more secretive about his movements. He's a  
21 little bit more wary in being able to make friends or make  
22 new associates. He's also very conscious of defamatory  
23 information that's been on the Internet about him.

24 So in business when he goes to try to move forward  
25 with any business associations, he's always very wary that

1 people are looking at him badly or in a negative light  
2 before he's even had an opportunity to start negotiation or  
3 to form friendships even.

4 Even with the children -- his children at school,  
5 making friendships with new parents, he's always very  
6 cognizant of the fact that people might, in fact, have  
7 already formed bad opinions of him or negative views of him  
8 before he's had an opportunity to even meet people for the  
9 first time in his new home.

10 MR. GEBELIN: Nothing further, subject to redirect  
11 examination.

12 THE COURT: Do you have cross-examination?

13 MR. TAYLOR: Thank you, Your Honor.

14

15 CROSS-EXAMINATION

16 BY MR. TAYLOR:

17 Q Good morning, Mr. Hammond.

18 A Sir.

19 Q My name is Benjamin Taylor, and I'm an attorney for the  
20 defendants in this case, and I just have to ask you a few  
21 questions this morning.

22 A Certainly, sir.

23 Q You testified that you live in Sydney, Australia?

24 A Yes, sir.

25 Q And have you ever lived here in California?

1 A No, sir.

2 Q When's the last time you were here in California?

3 A I was here approximately eight weeks ago, 12 weeks ago.

4 Q And when before that?

5 A Before that would have been last Thanksgiving.

6 Q So you come to California pretty often?

7 A Yes, I do.

8 Q Did you personally witness any of the -- any  
9 protest-type activity against Mr. David that took place here  
10 in California?

11 A No, I did not.

12 Q You don't have any training in pyschiatry or  
13 psychology, do you?

14 A No, I don't.

15 Q And you said you're a good friend of Mr. David?

16 A I am.

17 Q For about, what? 15 years?

18 A Correct.

19 Q You said that it was your understanding that the move  
20 that the Davids made from Sydney to Los Angeles about six,  
21 seven years ago was difficult for them?

22 A Yes.

23 Q They left their friends and their community and their  
24 support system, I think you said?

25 A Yes, sir.

1 Q Were you aware that two years before that, they moved  
2 from Sydney to United Arab Emirates in the Middle East?

3 A Yes, sir.

4 Q Was that also difficult for them?

5 A No, because that was a move for a business venture. So  
6 they moved with high hopes, but they also had support  
7 structures with people visiting and also were in contact  
8 with people in Australia. So they didn't have to go there  
9 and keep their whereabouts secret, which they did when they  
10 first came to California.

11 Q You said that you were present during part of the ICAC  
12 proceeding where someone offered, I think you said, witness  
13 protection to the Davids?

14 A Yes.

15 Q Was that your term "witness protection"?

16 A That's what was offered, yes.

17 Q And do you know if they accepted that offer of witness  
18 protection?

19 A I don't know.

20 Q They didn't accept it, did they?

21 A I don't know.

22 Q You said at the beginning of your testimony when  
23 Mr. Wiener was asking about your employment that you're a  
24 broadcaster?

25 A Yes, sir.

1 Q What does that mean? What do you do?

2 A I produce and present radio and television programs.

3 Q You're on air as well, as well as behind the scenes  
4 working on the content?

5 A Correct.

6 Q What company do you work for?

7 A At the moment, the Australia Radio Network, ARN, in  
8 Sydney, Australia.

9 Q ARN. That's a subsidiary company of Fairfax Media,  
10 isn't it?

11 A No, it's not.

12 Q It's not related to Fairfax Media?

13 A Not at all.

14 Q Have you ever worked for Fairfax Media?

15 A No, I have not, and I do not.

16 Q You've never worked for a company that's part of  
17 Fairfax Media?

18 A No, sir.

19 Q When did you arrive here in California?

20 A Saturday morning.

21 Q So two days ago?

22 A Yes, sir.

23 Q And who paid for your plane ticket to come here?

24 A I did.

25 Q You paid for it yourself?



1 A Yes, I did, sir.

2 Q How much did it cost?

3 A 6,000 Australian dollars.

4 Q So that's about how much American?

5 A I don't know. Maybe \$4,000.

6 Q \$4,000 round trip?

7 A Correct.

8 MR. TAYLOR: Nothing further, Your Honor.

9 THE COURT: Any redirect?

10 MR. WIENER: No redirect, Your Honor

11 THE COURT: May this witness be excused?

12 MR. WIENER: Yes, Your Honor.

13 THE COURT: All right. Thank you, sir. You may  
14 step down. Safe travels back.

15 Mr. Wiener, you may call your next witness.

16 MR. WIENER: Your Honor, plaintiffs have presented  
17 their case-in-chief and will rest at this time.

18 THE COURT: All right. Mr. Taylor, do you wish to  
19 present a case at this time?

20 MR. TAYLOR: We do, Your Honor, but at this point,  
21 I'd like to make a motion.

22 THE COURT: We'll do that at the break. So you've  
23 preserved the motion.

24 MR. TAYLOR: Okay.

25 THE COURT: You want to call your witness, please.

1 MR. TAYLOR: Yes, will do.

2 Defense calls Charif Kazal.

3

4 D E F E N S E

5 THE COURT: All right. Sir, you may step forward.

6 CHARIF KAZAL, DEFENDANTS' WITNESS, SWORN

7 THE WITNESS: Good morning, Your Honor. Good  
8 morning, ladies and gentlemen.

9 THE CLERK: Please state and spell your name for  
10 the record.

11 THE WITNESS: Charif Kazal. My surname is spelled  
12 K-a-z-a-l.

13 THE COURT: All right. You may proceed.

14 MR. TAYLOR: Thank you, Your Honor.

15

16 DIRECT EXAMINATION

17 BY MR. TAYLOR:

18 Q Mr. Kazal, you are a citizen of Australia; correct?

19 A That's correct.

20 Q And where do you currently reside? What city?

21 A I reside in Sydney, Australia.

22 Q And you flew here to be present for this trial; right?

23 A That's correct.

24 Q And how long -- it's a long trip. How long did it take  
25 you to get here?

1 A Fifteen hours.

2 Q And you've been here obviously for at least a week?

3 A Yes.

4 Q The other defendants in this case -- Tony Kazal, and  
5 Adam Kazal, those are two of your brothers; right?

6 A That's correct.

7 Q Are you married, sir?

8 A Yes, I am.

9 Q And you have children?

10 A Yes, I have two young children. A six-year-old and  
11 almost two years' daughter.

12 Q How is it, if you can briefly describe, that you became  
13 acquainted with the plaintiff in this case, Mr. David?

14 A I was president of The Rocks Chamber of Commerce. It's  
15 a business district down Sydney, and I had met Mr. David's  
16 father at a function. And for some reason -- I'm Australian  
17 of Lebanese heritage, and he was telling me that he was of  
18 Lebanese heritage, Syrian heritage, something like that. He  
19 had a young son he wanted to connect us to, and I said,  
20 "Yeah, that will be fine." The next morning I received a  
21 call from John David and invited me to his office to  
22 introduce me to his son, and that's how I met him.

23 Q And when was this, approximately, what year?

24 A It was mid 2006, mid to late 2006.

25 Q At some point after you became acquainted, did you and

1 Mr. Rodric David have discussions about doing business  
2 together?

3 A Oh, yes. Initially Mr. David, with his father, were  
4 involved in a construction company called Parkview  
5 Construction, and they asked for my help. They were trying  
6 to get on to a tender list to build a hotel for Emirates  
7 Airline they were building in Australia. Mr. David knew of  
8 my family's connection to that part of the world and the  
9 relationship we had, and I was asked to assist them on a  
10 consultancy basis to include them on the tender list, to  
11 help them go on a tender list. And, hence, the relationship  
12 started.

13 Q So you did some consulting for Mr. David?

14 A That's correct.

15 Q And then did the discussion eventually turn to going  
16 into a joint venture together?

17 A That's correct. Shortly after that, I was able to  
18 secure them to be on a tender list for this project, and  
19 then there were discussions about visiting the UAE and  
20 seeing what opportunities that presents for them within the  
21 property sort-of-facility-management type of sector.

22 And I facilitated for them a trip where I  
23 introduced Mr. David and his co-directors Tony Touma, Emile  
24 Tabet, Clinton Willoughby, also Mr. David invited Mr. Kelly  
25 on that trip, Andrew Kelly, who had a relationship with

1 Mr. David's father through their leases in Downing Harbor,  
2 the entertainment center.

3 And I facilitated them in meetings with key people  
4 in the industry, and I've introduced them to that part of  
5 the world.

6 That was around May, May 2007. And I continued  
7 consulting for Mr. David, trying to facilitate another trip  
8 to UAE where Mr. David was telling me that he wanted to move  
9 with his family, he wanted to start a business. He sees  
10 great opportunities and great market benefits for him to be  
11 in the UAE.

12 Q And what was the name of the joint venture that you  
13 formed with Mr. David?

14 A Initially the company, the joint venture was called  
15 Emergent Capital, and it was a 50/50 by structure. It was  
16 set up around September 2008, just shortly after I was able  
17 to secure a partner to come on board for the labor  
18 housing -- labor housing project in Abu Dhabi, which this  
19 was a substantial business opportunity for Emergent Capital  
20 because we were given a 49 percent free carry from the local  
21 partner who was able to give us a long-term business  
22 contract to operate this labor housing project which had  
23 substantial projections of multi-million dirham revenue  
24 throughout the life of the project.

25 Q And you said that it was a 50/50. That was between

1 which two entities?

2 A It was Mr. David's entity was RAAL was 50 percent and  
3 KTC, which is Tony, my brother Tony and I, we were  
4 50 percent.

5 Q It was 50/50 RAAL and KTC?

6 A That's correct.

7 Q That's Emergent Capital?

8 A That's correct.

9 Q And I think you testified about what KTC was supposed  
10 to do under this joint venture.

11 What was your understanding of what RAAL was  
12 supposed to do under the agreement?

13 A The agreement was very clear from day one. Mr. David  
14 needed our help, needed our expertise and our contacts, and  
15 he was prepared to foot up the initial capital into the  
16 project on the basis that we were bringing the contact, the  
17 opportunity, the business, that we will sponsor him and his  
18 family through my brother's company in Dubai and for them to  
19 be able to live safely and be able to work in the UAE.

20 And Mr. David, in return, would collect 12 percent  
21 compounded interest on any money that he would put into the  
22 venture on the proviso -- on the proviso that he will take  
23 that money from the income of the project that was brought  
24 forward by us, we'll give him 41 percent carry off for  
25 business -- a potential worth millions of dollars -- and all

1 Mr. David had to do was put some small amount of money into  
2 this.

3 So we fulfilled our part, and Mr. David had to  
4 fulfill his.

5 Q At some point, did problems begin in the relationship?

6 A Through 2008, after we set up the company, there was an  
7 opportunity to acquire a waste facility business in  
8 Australia that we saw that this would help us also try to  
9 break into the waste facility sector in the UAE, and this  
10 business was initially struggling. But for Emergent Capital  
11 to have been able to actually acquire this business -- it  
12 was in middle of the GFC. It was January 2009. And this  
13 business had a debt of some \$40 million dollars to the  
14 Commonwealth Bank of Australia.

15 And at the time, when this deal was being put  
16 together, Mr. David and myself agreed that we will go into  
17 this venture, and we will give 20 percent to another partner  
18 who was working for the mother company that we're buying the  
19 business from.

20 So, technically, Emergent Capital will have  
21 80 percent, and 20 percent will be given to a gentleman by  
22 the name of David Singh, which is -- under his company  
23 S-I-L, SIL.

24 And for this transaction to have been able to  
25 happen, there was a requirement from the Common Bank of

1 Australia that who are your people, they're a \$2 shelf  
2 company, you're not worth anything. We need some security  
3 that someone is able to service that \$40 million debt.

4 And Mr. David wasn't prepared to put up any  
5 security. David Singh, who was given 20 percent free carry,  
6 wasn't prepared to put in security. I, at the time, had to  
7 work so hard to convince my brother Karl who's substantially  
8 wealthy to come in and provide his personal guaranty, so  
9 we're able to secure this opportunity. This was a  
10 substantial risk that was taken on our behalf by my brother  
11 putting his personal guaranty so the bank can consent to the  
12 assignment of the project going into the ownership of  
13 Emergent Capital.

14 Q How did the problems begin in the relationship?

15 A Very simply, around mid 2009, Mr. David, obviously,  
16 after we had an initial -- the waste business we bought --  
17 just to give you a background -- had a contractual problem  
18 with the Government because the business was based on a  
19 contract with the New South Wales Government on receiving  
20 municipal waste and received about 15 percent of Sydney's  
21 waste, about 220,000 ton that needed to be processed through  
22 this facility.

23 And the business was struggling. The Government  
24 had taken action against the business. There was a lot of  
25 problems, and the business wasn't obviously profitable. And



1 there was further requirement for my brother Karl to extend  
2 his personal guaranty by 600,000, so that's 2.6 million.

3 And there was a further requirement from our end  
4 in around August of 2009 where the CEO, David Singh, sent an  
5 e-mail to say, "If I don't get 600,000 put into the bank  
6 immediately, I'm going to hand the keys to the bank." This  
7 is how dire this business was. And I again called on my  
8 brother Karl. I got the money. I made sure it facilitated  
9 the business to allow the business to survive.

10 Mr. David, soon after we won our first court case  
11 against the Government, he basically started to realize this  
12 is going to be a lot of value created, and he started --  
13 wanted to change the structure that we all agreed on. And  
14 saying, "Oh, I need money. We need this." I said, "Look,  
15 that's fine. Could we -- can you please give us audited  
16 accounts. If you expect us -- this wasn't our agreement,  
17 but if you expect us to put money, at least we're entitled  
18 to an audited financial to understand what this -- what are  
19 you asking us to pay you. If you claim you've spent this  
20 money, please show it to us."

21 THE COURT: Counsel, next question, please.

22 BY MR. TAYLOR:

23 Q Sure. You mentioned audited financials.

24 Was Mr. David able to provide those audited  
25 financials?

1 A Never. We never received those financials.

2 Q You mentioned a moment ago, just backtracking, you said  
3 the initials GFC -- that's Global Financial Crisis --

4 A Absolutely, 2009, January 2009, yes.

5 Q So at some point in 2010, did you learn that there was  
6 a board meeting convened of the board of directors of  
7 Emergent Capital?

8 A I only learned of this meeting in late March.  
9 Obviously, Mr. David -- there was a lot of discussion about,  
10 you know, him giving us financial, backward and forth, but,  
11 obviously, Mr. David had convened a meeting without prior  
12 notice to Tony and myself where he basically diluted our  
13 shareholding in the business from 50 percent to 0.1 And  
14 technically, he did it -- he only left us at 0.1 so that we  
15 don't get notified that there was there -- because if you  
16 remain as a director in a company, they will notify you --

17 THE COURT: I'm sorry. You said it was diluted  
18 from 50 percent to what?

19 THE WITNESS: To 0.1.

20 THE COURT: 0.1.

21 THE WITNESS: Yes, that's correct.

22 So this was done in a technical way for us never  
23 to find out about this, and I only learned about this in  
24 late March through a subsequent meeting that Mr. David had  
25 called where he voted Tony and I off the board.

1           And then when I contacted the registrar to find  
2 out what's going out, then I learned of the dilution of the  
3 shares that had taken place on the 28th of January 2010.

4           But, very importantly, very importantly, I can  
5 tell you that Mr. David was working with his best lawyer  
6 friend working for a law firm called Gilbert & Tobin -- this  
7 is one of the biggest law firms in Australia -- through  
8 November 2009, where this law firm and Mr. David's best  
9 friend, Andrew Bullock, had written him and advised on how  
10 to steal our shares in the business.

11           And it's so -- it's so horrific that the junior --  
12 the junior solicitor on that file wrote on the bottom of the  
13 e-mail, which now I'm aware of as part of my lawsuit against  
14 Mr. David in Australia, that please let me know if this is  
15 dodgy. So Mr. David knew all along, even the junior  
16 solicitor in this firm, had questioned and called the  
17 transaction dodgy.

18           MR. WIENER: Your Honor, move to strike as  
19 nonresponsive.

20           THE COURT: Sustained. Stricken.

21 BY MR. TAYLOR:

22 Q       You mentioned two board meetings.

23           Was there immediate impact and harm to you and  
24 your brother Tony as a result?

25 A       Absolutely. It was something you work so hard for.

1 You've done everything right. You've fulfilled your part of  
2 the equation, you've fulfilled your commitment and suddenly  
3 someone just gives themselves the right to take something  
4 that you have and without prior notice to you and just give  
5 themselves the right to say -- even the reason that was  
6 given by Mr. David to the Grand Cayman court when His Honor  
7 Justice Jones reversed -- reversed the dilution to  
8 50 percent -- back to 50 percent. The reason to say, I'm  
9 converting -- to taking 49.9 percent of the company because  
10 of 49 and a half thousand dollars. A company that's worth  
11 millions of dollars. This is how ridiculous this was.

12 MR. WIENER: Your Honor, move to strike again as  
13 nonresponsive.

14 THE COURT: What are you seeking to strike? The  
15 entire answer?

16 MR. WIENER: The question was whether there was a  
17 harm. I didn't hear any description of the harm. I heard a  
18 diatribe about --

19 THE COURT: Sustained. Stricken. You may  
20 rephrase or ask your next question.

21 BY MR. TAYLOR:

22 Q The first meeting that you described, that was in  
23 January of 2010?

24 A That's correct.

25 Q And that was -- the vote taken there, you understand --

1 did that have to do with the conversion of debt to equity?

2 A That's correct.

3 Q After you learned about these board meetings, did you  
4 take legal action to try to reverse what had been done?

5 A Of course, sir. As soon as I learned of this late  
6 March, early April, I engaged my lawyers, Tony and I, to  
7 basically take appropriate steps to restore our -- our  
8 equity in the company and reclaim our rights.

9 Q And this was an action that you commenced in the Cayman  
10 Islands?

11 A That's correct. Because that's where Emergent Capital  
12 was established in the Cayman Islands.

13 Q Did the Court in that proceeding make any orders?

14 A Yes. In October of 2011, there was a hearing, and very  
15 clearly that hearing was, KTC was successful in establishing  
16 its case before the court where the judge reinstated KTC to  
17 50 percent and also found that Mr. David had breached his  
18 fiduciary duties to the company and to the directors.

19 MR. WIENER: Your Honor, objection. That's  
20 hearsay.

21 THE COURT: Overruled.

22 BY MR. TAYLOR:

23 Q You mentioned a moment ago that you commenced legal  
24 action in mid 2010, and then the Court issued an order in  
25 October of 2011.

1           What happened in the interim, if you know, to the  
2 assets of Emergent Capital?

3       A     Well, this was the situation. In June 2010, the Court  
4 in the Cayman Islands ordered an injunction, basically a  
5 freeze on all corporate action in the company. What  
6 Mr. David, along with Mr. Singh have done, they worked  
7 against basically this injunction by facilitating an  
8 unsolicited offer they claimed -- so they claim, but the  
9 evidence we have now proves otherwise -- from a capital  
10 raising fund called Iron Bridge Capital where they came in  
11 and offered to buy the waste facility for \$25 million.

12           During that time, KTC made a number of  
13 counteroffers and we went as high as offering \$30 million to  
14 basically take control of the waste facility only to be --  
15 only to be rejected. And Mr. David and Mr. Singh selling  
16 the business for \$25 million compared to a \$30 million  
17 offer.

18           So if you were selling something, would you take  
19 \$30 million or \$25 million, unless there was a sinister part  
20 of the story that we all know about.

21       Q     Did you subsequently learn since 2011 what happened  
22 with the Global Renewables business?

23       A     Yes, it was sold in late 2010, early 2011, but  
24 two-and-a-half years later, November 2013, 50 percent of the  
25 business was sold for some \$85 million to a private equity

1 firm called Palisade Investments. So that basically valued  
2 that business at \$170 million.

3 Q Now, we've heard mentioned a few times throughout this  
4 trial, the ICAC inquiry in New South Wales.

5 How did you learn about that inquiry the first  
6 time?

7 A The first time I learned of anything to do with ICAC  
8 was during the course of the dispute with Mr. David, his  
9 lawyers in the Cayman Islands, the Walkers, have sent a very  
10 detailed letter to my lawyers, Applebys in the Cayman Island  
11 and attached a government -- a confidential government  
12 report concerning one of my family's properties in a  
13 historic part of Sydney, The Rocks.

14 In this letter, there was a direct and there was a  
15 veiled threat by Mr. David's lawyers about an ICAC inquiry  
16 concerning me and Mr. Kelly who was a witness to KTC in the  
17 case against David concerning an ICAC inquiry. This is  
18 July 2010. We have been threatened at ICAC inquiry. This  
19 is the first time I ever heard of it. And just for the  
20 record, there was not an inquiry until a year later in 2011.

21 Q That was my next question: The ICAC inquiry was only  
22 made public the next year?

23 A Absolutely. Only made public -- and just for the  
24 record, only made public in July 2011. But what led the  
25 ICAC inquiry to take place was a series of attacks on me and

1 my family by the Sydney Morning Herald, which was a Fairfax  
2 newspaper. And Mr. David, under oath at ICAC, confirmed  
3 that he had provided information to this newspaper and he  
4 had provided cropped photos where he cut himself out of the  
5 photo claiming that me, Mr. Kelly were on this big junket  
6 while he and his other team were part of this photo.

7 So there was misleading information provided by  
8 Mr. David to the Sydney Morning Herald to run malicious and  
9 damaging articles claiming corruption on my part and that of  
10 my family, which have all now been proven to be completely  
11 untrue and completely --

12 THE COURT: Mr. Taylor, you need to ask a  
13 question.

14 MR. TAYLOR: Yes, Your Honor.

15 MR. WIENER: Your Honor, I'm also going to move to  
16 strike the witness's testimony about what Mr. David said or  
17 didn't say at the ICAC hearing as hearsay.

18 THE COURT: Sustained. Stricken.

19 BY MR. TAYLOR:

20 Q Now, again, when you learned of the ICAC inquiry that  
21 was made public the next year, what did you understand to be  
22 the allegation or the basis of what they were looking into?

23 A Well, the allegation was so malicious and so untrue,  
24 they were claiming that my family who had been long  
25 established tenants in The Rocks area for 25 years, worked



1 very, very hard, very proud of their work, to have -- to  
2 have gotten all those leases basically corruptly and because  
3 of some trip that I had taken to the UAE with Mr. Kelly.

4 Q And who was Mr. Kelly at that time?

5 A Mr. Andrew Kelly, as I said earlier, he was an  
6 executive that was employed at the Sydney Harbor Foreshore  
7 Authority before being employed by Mr. David as a key person  
8 in the facility management.

9 Q So he had been an employee of a governmental entity  
10 that dealt with leases at The Rocks?

11 A Absolutely. He had no dealing with any of our family's  
12 leases, and that's been proven. And it's been accepted by  
13 the ICAC itself and the inspector.

14 Q After the inquiry concluded, were you ever charged with  
15 any crime?

16 A I was not -- never charged with anything. To the  
17 contrary, the ICAC inquiry was so malicious and it was so  
18 out of character, I fought very hard to clean my name. It  
19 take me a long, long, long period of time to stand up to  
20 what has been done wrong to me. And, thankfully, I was able  
21 to do that through a very public report that's been tabled  
22 in Parliament based on a referral of the New South Wales  
23 Premier, Mr. Mike Bid (ph.) who I had a meeting with after  
24 my story became public of what had happened to me through  
25 ICAC.

1           And inspector of ICAC, after two years of  
2     investigating my complaint, found that I had been wronged.  
3     There was no evidence of any wrongdoing before, during, or  
4     after the inquiry; and he exonerated myself and Mr. Kelly  
5     and called on the Parliament to introduce an exoneration  
6     protocol.

7           MR. WIENER: Your Honor, I'm going to object. His  
8     testimony about the contents of the ICAC report is hearsay  
9     and fails the best evidence rule.

10          THE COURT: The objection is sustained.

11     BY MR. TAYLOR:

12     Q     The excerpts from the report that counsel had Mr. David  
13     read on the stand last week, were those -- what's your  
14     understanding of what those excerpts were? Were those  
15     excerpts that the inspector was accepting?

16     A     No, those were excerpts that the inspector was  
17     investigating and found that they were totally malicious and  
18     had no basis.

19          MR. WIENER: Your Honor, same objection. It's  
20     testimony about what's in the ICAC report.

21          THE COURT: The witness -- Mr. David testified  
22     from those reports as well. The objection's overruled.

23     BY MR. TAYLOR:

24     Q     Now, going back to the actual public inquiry that ICAC  
25     conducted in 2011, how long did that inquiry last?

1 A It lasted about ten days in total.

2 Q There were public hearings?

3 A Absolutely. Quite daunting, quite stressful. You've  
4 been splashed on the front page of the newspapers every day,  
5 you've been called all sort of names. Your family, your  
6 kids. The effect of going through something like this is so  
7 terrible. I mean, I wouldn't wish it upon my worse enemy.  
8 It's like -- you never want to experience some of this,  
9 especially when you know that you are innocent.

10 Q Now, did Mr. David have any involvement in that  
11 inquiry?

12 A Yes, he was. The ICAC again denied me procedural  
13 fairness. Brought Mr. David, at my protest, at my protest,  
14 that I had two lawsuits on foot against Mr. David at the  
15 time, brought him as a star witness to basically just harm  
16 me.

17 Q And did the ICAC inquiry, the fact of the proceeding  
18 and the aftermath, have an effect on you and your family  
19 from a business perspective?

20 A Absolutely. What I can tell you is there would never  
21 have been an ICAC inquiry had there been for the false media  
22 allegations that were published in the Sydney Morning  
23 Herald. The inspector of ICAC made it very clear that the  
24 ICAC and the commissioner of ICAC breached the ICAC Act by  
25 calling an inquiry based on lies that were printed in the

1 Sydney Morning Herald. This is in the report, in the ICAC  
2 report, inspector's report of June 2017.

3 And, most importantly, the impact that this had on  
4 me and my family was horrific. You have to -- just imagine  
5 you have to explain yourself to everyone.

6 Our kids at school were abused. A 13-year-old  
7 daughter -- a 13-year-old niece attempted self-harm after  
8 being bullied and abused at school. This was -- when you're  
9 talking about a person's name, this was an attack on my  
10 entire family, and we had to endure some very, very, very  
11 painful and difficult times.

12 Q What was the impact, if you can briefly describe it,  
13 from a social standpoint?

14 A You're persona non grata basically. You have to  
15 explain yourself. You have to always -- you have to tell  
16 people -- oh, what's going on. Hi. You've been found  
17 corrupt. All this stuff that you have to always explain  
18 yourself.

19 Even -- my family runs and operates a number of  
20 restaurants and cafes. 300-odd staff you have to explain  
21 yourself to them. You have to explain yourself to  
22 customers. It's just so painful that you're in the public  
23 face, you're on the ground, you're not living in a fortress  
24 somewhere where we're not in contact. We're in contact with  
25 people on a daily basis and every day -- every day you have

1 to explain yourself. Every day you have to tell someone  
2 what happened. It's so painful and so horrific. It's  
3 terrible.

4 Q What was the impact if you can share upon your wife?

5 A Devastating. Completely devastating. I mean, again,  
6 you know, you've got to face up, you've got to meet  
7 neighbors, meet friends, meet new people that you meet, go  
8 to events. It's just -- it is so hard.

9 I mean, she had to seek counseling. She had to  
10 seek, you know, help. She was on -- she was on tablets. It  
11 was very, very difficult and dark period that she had to go  
12 through.

13 Q You alluded a few moments ago to press stories, news  
14 stories in the Sydney Morning Herald.

15 When did those news stories start appearing?

16 A This is an important milestone. Soon after I commenced  
17 action, Tony and I, KTC, commenced action in June -- May,  
18 June 2010. Mr. David's father came into our office and he  
19 made it very clear that if we don't accept his offer of  
20 \$3 million and walk away that he will destroy the entire  
21 family.

22 And since that day -- since that day --

23 THE COURT: Counsel, is there an objection?

24 MR. WIENER: Objection, Your Honor. It's hearsay.

25 The statements by Mr. David's father.

1 THE COURT: Sustained.

2 Next question, Counsel.

3 BY MR. TAYLOR:

4 Q When did the first of the news stories appear?

5 A Well, the first story was run was on 1, September 2010.  
6 Just in the middle of the dispute, the commercial dispute,  
7 the litigation that was on foot, without any contact to  
8 myself or anyone in my family from the journalist. We were  
9 never contacted for a right of reply. We were never given  
10 an option to our side of the story. It was complete veiled  
11 attack on us with information that only could have been  
12 provided to the journalist from Mr. David.

13 Q Were there -- how many articles are we talking about in  
14 this series that you reference?

15 A Well, the first series was 1 September 2010, 2  
16 September 2010, 3 September 2010, and 4 September 2010.  
17 This was the first, you know, sort of dangerous,  
18 humiliating, malicious articles that were written with no  
19 basis, no foundation, and basically labeling us as being  
20 corrupt, calling our friends, calling people that we had  
21 dealings with.

22 It's just sort of -- something so imaginary you  
23 will not believe what you're reading, some of the stuff that  
24 was -- I call it the rubbish commentary that's being  
25 published on me and my family.

1 Q Were these types of stories about your family run in  
2 other publications as well?

3 A Absolutely not. It's only one journalist and one  
4 newspaper that we were attacked. This is how terrible this  
5 experience is. Only one journalist and one newspaper.  
6 Linton Besser of the Sydney Morning Herald. There was no  
7 other newspaper running anything as such.

8 Q Now, at some point as part of the business venture, did  
9 Mr. David relocate with his family to the Middle East?

10 A Absolutely. He was pressuring me every day, saying how  
11 great this whole thing is going to be. I still got all the  
12 e-mails he was sending me. This is going to be a new  
13 opportunity, a new way of life. I want Tony to introduce me  
14 to this person. I want Karl to introduce me to this person.  
15 I want to do this. He was very excited, and he wanted to be  
16 in that part of the world, and I was fulfilling my  
17 commitment to help him do so.

18 Q How did you help him?

19 A Well, Mr. David could not have moved to the UAE with  
20 his family without the support of Tony sponsoring him and  
21 his family through a proper visa to give him the ability to  
22 live there without having any issues. Because it had taken  
23 us almost from July of 2008 to about January of 2010 to be  
24 able to establish the company and have it registered --  
25 that's the IPS, International Property Services vehicle that

1 we're going to operate the labor housing project.

2           So Mr. David to be able to live in the UAE, he  
3 needed the support of Tony to live there.

4 Q     Your brother Tony was living there at the time?

5 A     Yeah, my brother's been a long-term resident of UAE.  
6 He has a partner who's a local. He's been awarded the  
7 Presidential order of the founder of UAE for his  
8 contribution to bilateral relationship between Australia and  
9 UAE, him and my brother Karl.

10 Q    Now, at some point, did you make a complaint to the  
11 authorities in the UAE regarding Mr. David?

12 A    There was one complaint made on behalf of myself and  
13 Tony to the authorities, and that was with regards to  
14 Mr. David's financial handling and dealings with the joint  
15 venture. Just to give you the snapshot. The joint venture  
16 was entered into by an M.O.U., Memorandum of Understanding,  
17 in July 2008. It had taken us about seven months to  
18 register the company.

19           During that time, Mr. David undertook to be making  
20 payments whilst we setting up the company. The local  
21 partner, who was 51 percent, agreed on us forming the joint  
22 venture which they would contribute 5.1 million dirhams and  
23 Emergent Capital vehicle will contribute 4.9 million  
24 dirhams.

25           Throughout July 2008, till January of 2009,



1 Mr. David, unbeknownst to me, was double-billing,  
2 double-charging and doing all this, you know, financial --  
3 financial discrepancies in the company. When the partner  
4 was very upset and very tired of Mr. David keep on putting  
5 his hand out and I had learned from the three Australian  
6 staff that were left in the UAE in January of 2010,  
7 Mr. David just left the company and basically moved on after  
8 diluting our shares.

9           So the local partner called on me, "What's going  
10 on? You introduced us to this person. You said he's like  
11 family. He's honest. He's reliable." I was bearing the  
12 brunt of all of this, so I had to take -- based on the  
13 testimony of three Australian executives that were employed  
14 by the company, I had to file a complaint that Mr. David was  
15 dealing inappropriately with the finances of the company.

16           THE COURT: Next question please, Counsel.

17 BY MR. TAYLOR:

18 Q     And at some point, we heard last week that there was a  
19 complaint by Tony as well.

20           Did you become aware of a complaint by Tony?

21 A     I only became aware of a complaint by Tony like after  
22 it was filed. Tony had sponsored Mr. David and his family  
23 through his company, AWT Dubai. And when Tony learned in  
24 late March with myself that Mr. David had stolen our shares,  
25 had voted us off the board, Tony wrote, over ten times, to

1 Mr. David asking him to return his visa, to return his  
2 passport, because, obviously, he was very upset.

3 But, more importantly, the partner with Tony was  
4 saying, "This guy, we sponsor him," whatever, and then there  
5 was some issues of the problems that we had. He said, "I  
6 don't want him part of my company."

7 So Tony was, ten times, writing him, as the  
8 e-mails are on the record, seeking Mr. David to return his  
9 passport so he could cancel his visa. And Mr. David was  
10 promising, promising, promising and never came. After 10  
11 times, Tony had to report this to the authority to protect  
12 himself and his partner.

13 Q Now, at some point, did you have discussions with  
14 anyone about a desire to get your side of the story out in  
15 the public domain?

16 A Look, it seemed -- it seemed every time there was a  
17 milestone in the court case, we were attacked -- I mean, we  
18 just didn't have four articles. We were attacked -- to  
19 date, I had about 40 articles written on me by the Sydney  
20 Morning Herald. The only newspaper. There's been 40  
21 articles. I've been attacked 40 times.

22 I'm just a normal person, normal family person.  
23 I'm not a public figure. I'm not someone who's in public  
24 life or -- I'm just going about my business, and I suddenly  
25 became a target. Everytime I had a dispute with Mr. David,

1 I would be attacked by the same paper and the same  
2 journalist.

3 THE COURT: Next question, Counsel.

4 BY MR. TAYLOR:

5 Q Who, if anyone, did you have discussions with about a  
6 desire to get your story out in the public domain?

7 A In March 2013, there was a very bad article written by  
8 Linton Besser called "Bad Company," and that article went  
9 into defaming me, my family, mom, dad, sister. He attacked  
10 everyone. The poisonous commentary that was in that article  
11 makes you sick when you read what was written.

12 So that time I was frustrated. I met a friend. I  
13 was in Dubai early 2013. Just shortly after, I met a friend  
14 who was in the I.T. industry, and he said -- he knew I was  
15 upset and frustrated. And his name is Joe Dabab.

16 And basically Joe offered, because he's in that  
17 space, he said, "Look, I will help you get your side of the  
18 story and put your experience of what's going on so at least  
19 people can have your version and your side of the story."

20 Q And how do you know this gentleman, Joe Dabab?

21 A Well, I met him in July through a very good friend of  
22 mine and basically Joe was a good friend of his, and he's in  
23 the I.T. space, and he offered to help.

24 Q Did Mr. Dabab ask you for any payment for doing that  
25 for you?

1 A No. He just said, "If you write your sub story, I'll  
2 help you broadcast it through a website that will be called  
3 Kazalfamilystory that people can read exactly what happened  
4 to you, your experience. At least people have your version  
5 of it."

6 Q And this was in 2013?

7 A That's correct.

8 Q And is that the year that he created the website for  
9 you?

10 A I believe sometime in mid June, July, 2013, somewhere  
11 around there.

12 Q Did either of your brothers, Adam or Tony, have any  
13 involvement in the creation of the website?

14 A None at all.

15 Q That you know of, did either of them at that point have  
16 any contact with Mr. Dabab at all?

17 A I don't believe so, no.

18 Q Once the website was live, what was your involvement in  
19 the website?

20 A Look, initially I was writing to the journalist and  
21 basically calling up on him to correct the record that he  
22 was -- he has caused me, my family harm. We're victims. So  
23 I was just writing him. And everytime I wrote an e-mail to  
24 the journalist, I would send it on to Joe to upload it on  
25 the website.

1 Q So you'd e-mail Mr. Besser, and then you'd forward the  
2 e-mail to Mr. Dabab?

3 A That's correct. That was the practice, yeah.

4 Q And then subsequently did he post other e-mails for you  
5 as well?

6 A Yes. I think late in 2015 sometime when I learned  
7 about the subsequent resale of Global Renewables for the  
8 \$85 million, and Mr. Singh still retained 50 percent of the  
9 company and then buying a \$30 million home on Sydney  
10 Harbor -- I mean, this is someone who had no money, that we  
11 gifted him 20 percent -- then everything started to, you  
12 know, open up to me. This was a huge fraud that's been  
13 perpetrated on me and Tony and my family by Mr. David and  
14 Mr. Singh.

15 And basically, then, I started to write to  
16 Mr. David, hoping that he would make it right, hoping that  
17 he would realize the harm and damage that he had done to me  
18 and my family and his conscious maybe tell him to fix the  
19 mess that he created.

20 Q You said you'd write to Mr. David, you mean you'd  
21 e-mail him?

22 A Yes, I'd write to him. I'd e-mail him.

23 Q And these e-mails are some of the e-mails we've seen in  
24 evidence in this case?

25 A That's correct.

1 Q Would you copy others at Thunder Studios on these  
2 e-mails?

3 A Yes. I wasn't sure if he was getting them, so I copied  
4 a number of people at Thunder Studios that I could find  
5 details online, and I just sent them on, yes.

6 Q And then after you would send the e-mail to Mr. David,  
7 did you forward it to Mr. Dabab?

8 A That was the practice. When I send an e-mail on, I  
9 would forward it to Dabab so Dabab could do the technical  
10 stuff. I mean, I'm not a technical person. I wouldn't  
11 know. Past operating my mobile phone, I have no idea about  
12 I.T. or technology. I'm very limited in that space.

13 Q Did the e-mails that you wrote to Mr. David which  
14 Mr. Dabab then posted on the website, did those e-mails ever  
15 attack Mr. David's wife or his children?

16 A Never at all. My grief was with Mr. David's actions,  
17 with Mr. David's behavior, with the fraudulent activities  
18 that Mr. David perpetrated on me and Tony, and I was only  
19 focused on that. It had nothing to do with anybody else  
20 apart from Mr. David.

21 Q And did the e-mails that you wrote to Mr. David in  
22 which Mr. Dabab posted on the website ever attack or  
23 criticize, in any way, any of Mr. David's three brothers?

24 A Not at all, ever.

25 Q Now, at the time -- at any time before this lawsuit was

1 filed, the lawsuit that we're here for trial today, did you  
2 have any knowledge or understanding of American copyright  
3 law?

4 A No.

5 Q What was your understanding, if any, as of 2013 about  
6 images that you'd find when you did a simple Google search?

7 A When you go online, you type someone's name, images  
8 come up. You got images. And what's available online is  
9 available for all to see. That was my understanding.

10 Q Now, at some point, there were photos of Mr. David that  
11 were added to the Kazalfamilystory website; correct?

12 A Yes.

13 Q And do you know when those photos started to be  
14 included on the website?

15 A I don't know. Initially, I -- when I asked for Joe's  
16 help, and he was able to help me, I sort of Googled a few  
17 images of Mr. David and I sent them on to him just to let  
18 him know what Mr. David looked like, but that's about it.

19 Q And did Mr. Dabab ask you to do that?

20 A Initially, no, I just did it myself.

21 Q And this was in 2013?

22 A Yes, 2013, 2014, around that time.

23 Q And at the time, did you have any understanding that  
24 images that you would find in a Google search like the one  
25 you just described might be copyrighted?

1 A No.

2 Q At any point, did you receive a cease and desist letter  
3 on behalf of Mr. David or Thunder Studios demanding that you  
4 take down any photos from Kazalfamilystory.com?

5 A Not at all.

6 Q At some point in 2016, did you become aware of a  
7 take-down notice that was issued by Thunder Studios to  
8 GoDaddy?

9 A Late 2016, I believe, Joe sent me a notice, I think,  
10 from GoDaddy, and I immediately forwarded that notice to  
11 Mr. Ronald Richards who's an attorney here in L.A., and he  
12 basically took care of that.

13 Q At some point, did you tell Mr. Dabab to remove the  
14 photos of Mr. David from the website?

15 A Yes. I said, "Look, we don't want to ever be in any  
16 trouble, cause any harm, that we're breaking the law.  
17 Please if there's anything, please remove it." And he  
18 assured me he'll do so.

19 Q And after you forwarded the complaint, the DMCA  
20 complaint to Mr. Richards, did you subsequently learn that  
21 the photographs had been registered with the copyright  
22 office?

23 A I think, yes. It was maybe early '17 or around early  
24 '17, I learned about that, yeah.

25 Q And was this notice that Mr. Dabab forwarded to you



1 which you said you then forwarded to Mr. Richards, was that  
2 the first time you had ever become aware of any claim at all  
3 that anything on the Kazalfamilystory website might be  
4 copyrighted?

5 A That's correct, yes.

6 Q At some point thereafter in 2017, did you ask Mr. Dabab  
7 to take down the entire website altogether?

8 A Yes. I felt, after I got the report from the inspector  
9 of ICAC, Mr. Nicholson, basically completely exonerating me  
10 and calling on the Parliament to introduce an exoneration  
11 protocol, I felt that I had achieved my purpose or my goal;  
12 that my story was ending; that I had -- the Australian  
13 newspaper has been very supportive of me for the last  
14 18 months since learning about my story.

15 I had a lot of strong support from other media  
16 outlets, including Channel 10 in Australia and so forth, so  
17 I felt there's no need -- no further need for me to have the  
18 website, and I asked him to shut it, yes.

19 Q Did he do so?

20 A Yes, he did.

21 Q Did you, in any way, during the four years or so that  
22 the website was live, did you profit or benefit in any way  
23 from the inclusion of any pictures of Mr. David on the  
24 website?

25 A Never.

1 Q Did you personally make any money off of  
2 Kazalfamilystory.com?

3 A Never. It was just a platform to tell my side of the  
4 story, my family's side of the story and to basically help  
5 me achieve what I was able to achieve through a very, very  
6 difficult period of my life.

7 Q Do you have any estimate, as you sit here today now, of  
8 how many visitors came to the website during the few years  
9 that it was live?

10 A There wouldn't be many. I mean, the website was just a  
11 platform. If I had met someone, instead of just reading the  
12 malicious and negative publicity that was created at the  
13 behest of Mr. David, for them to see the truth of what I had  
14 exactly experienced and what was my case all about. This  
15 was the only purpose. And it was my last resort. I had no  
16 other option but to do that.

17 Q Did any court ever issue any order requiring you to  
18 take down the website?

19 A Never. Never.

20 Q Between 2013 and 2016, did you personally have any  
21 social media accounts?

22 A The only social media account was a Twitter that was  
23 also managed by Joe. As I told you earlier, I don't know  
24 how to tweet. I'm not familiar. The only thing I've got is  
25 just "What's App." That's it.

1 Q Now, at some point, did you become aware of protests  
2 against Mr. David here in Los Angeles?

3 A Yes. I became aware, and it was some time  
4 October 2016, yeah.

5 Q Did you have any role at all in organizing or carrying  
6 out those protests?

7 A Never.

8 Q None, whatsoever?

9 A None, whatsoever.

10 Q Did you know that they would take place in advance?

11 A No.

12 Q And do you know who organized the protests that took  
13 place here?

14 A Now I do, and I can tell you it was my brother Adam  
15 whom had his identity stolen by Mr. David's staff, Thunder  
16 Studios' staff, four of them: Mr. Matt Price;  
17 Mr. Paul Kolesa who you've heard from here in the witness  
18 box; Mr. Mark Hatch; Mr. Ryan Wills who we were able through  
19 some discovery in a lawsuit we had against Mr. Price, we  
20 were able to learn what the Thunder Studios' staff had  
21 stolen my identity, Tony's identity, Adam's identity, Karl's  
22 identity and also set up a website called Kazalfamilytruth,  
23 which were completely defaming us globally and linking us to  
24 despicable organization -- organizations, criminal  
25 organizations, such as Hezbollah. And basically saying that

1 we are criminals, we're money launderers, we are terrorists.

2 It just --

3 THE COURT: Next question, please.

4 Your last question was: Do you know who organized  
5 the protests that took place.

6 MR. TAYLOR: Yes. Thank you, Your Honor.

7 BY MR. TAYLOR:

8 Q You said that these websites stole your identity.

9 What do you mean by that?

10 A Well, my name is Charif Kazal and now there was a  
11 website until January of this year where it's been suspended  
12 because of the lawsuits we have against Mr. Price. If you  
13 had gone in and put Charifkazal.com, you would have seen  
14 horrific imagery, commentary, linking me to terrorist  
15 organizations, money-laundering, criminal activity.

16 I'm a peaceful person. I've never been, ever, in  
17 trouble with the law. I'm an honest person. I've never  
18 done a thing wrong in my life. No one can ever come  
19 anywhere and say Mr. Kazal had done a thing wrong by me. I  
20 live and stand by my name, my reputation, and that's the  
21 only thing -- the only asset I have.

22 Q So it was your understanding that there were websites  
23 created in your name, literally Charifkazal.com,  
24 Adamkazal.com --

25 A That's correct.

1 Q Now, you mentioned a moment ago, despicable criminal  
2 and terrorist organizations like Hezbollah.

3 What is your understanding of Hezbollah? What is  
4 that?

5 A They're a horrible organization that attacks innocent  
6 people, draft terrorism. I wouldn't want anything to do  
7 with them. I wouldn't want to be associated with them. I  
8 despise them. I don't respect them. I completely reject  
9 any of their ideology, any of their beliefs.

10 Peace is the only place in the world. Peace is  
11 the only thing that will make this world go forward, not  
12 terror. It will never help.

13 Q Do you know where Hezbollah is based?

14 A I guess, from what I know, they're somewhere in  
15 Lebanon.

16 Q Now, there was some testimony last week about an order  
17 against Adam in the court in Australia.

18 Do you have any knowledge about that order?

19 A Yeah, I became aware of this order. And just for the  
20 record, so you're clear on what you saw, this order was a  
21 consent order. So my brother Adam, after learning about  
22 what happened to his name, being stolen and everything, he  
23 had taken some activities to protest, to peaceably protest  
24 about his name and identity being stolen because he was  
25 being abused, his kids at school being abused, his son is an

1 Australian cadet -- it's a division of the Australian Army.

2 He had some terrible experiences there -- his wife  
3 at school being -- being called, "You're a wife of a  
4 terrorist supporter," stuff -- because he had photos with  
5 the words "Support Hezbollah" embedded on his head on those  
6 websites, stuff like that.

7 So Adam was peaceably protesting, and he did what  
8 he did, and I understand there were consent orders. So  
9 those orders that you saw, Adam consented to them to  
10 basically stop operating the vans and so forth that he was  
11 protesting with in Sydney. And my understanding, he  
12 consented to them. So there was not like a forced order by  
13 the court. It was something he consented to.

14 Q As of October of 2016, which I think we saw was when  
15 the -- late October was when the protest first took place  
16 here, were you on good terms with your brother Adam at that  
17 time?

18 A No, I've not been on good terms. Adam -- a number of  
19 people in my family holds me responsible for the pain that  
20 they've suffered for the last ten years at the hands of  
21 Mr. David and his powerful circle of people that he can use  
22 against you to defame you, to destroy you, to do whatever,  
23 and they felt that I was responsible for bringing Mr. David  
24 to the family's life.

25 All I ever wanted was to have a good business, to

1 try to have a good life and to do something honorable,  
2 unlike what the experience that Mr. David had put me and my  
3 family through.

4 Q So as of October of 2016, you weren't, is it fair to  
5 say, you weren't really on speaking terms with Adam?

6 A No.

7 Q You've mentioned different lawsuits that have been  
8 filed and litigated over the last many years. Are you  
9 currently continuing to pursue your rights against Mr. David  
10 and Thunder Studios in the courts?

11 A Absolutely. The only platform, the only place where I  
12 believe I will get justice like I had gotten justice at the  
13 complaint I made to the inspector after the premiere  
14 referred me to him, I am currently suing the Independent  
15 Commission Against Corruption and the former commissioner  
16 for the malicious inquiry based on the findings in the  
17 inspector's report for the damage and loss and pain that  
18 they put me and my family through.

19 Tony and I, through our company, KTC, the  
20 aggrieved company at the hands of Mr. David, we've commenced  
21 legal action in July this year in the Supreme Court of New  
22 South Wales where there are five defendants listed. Mr.  
23 David is one of them, Mr. Singh is one of them, Gilbert &  
24 Tobin law firm are one of them, based on the evidence we  
25 have, and also the former partner of Gilbert & Tobin,

1 Mr. Andrew Bullock, is also a defendant.

2 We have overwhelming evidence, the things I know  
3 now, the things I have in my possession now are overwhelming  
4 at the behavior and the dirty work that Mr. David performed,  
5 along with Mr. Singh, to destroy me, my brother Tony and our  
6 interest in KTC, and I'm looking forward to my day in court.

7 Q And is there another lawsuit pending in Australia as  
8 well?

9 A Yes. Mr. David, in 2014, sued me for defamation. I've  
10 got a cross claim in that lawsuit against Mr. David and  
11 Thunder Studios. In August 2016, the judge in the case  
12 allowed me, based on evidence produced about the  
13 Thunder Studios' employees, to also add Thunder Studios into  
14 the case, so that's also on foot as well.

15 Q Now, we've talked a bit about the e-mails that you sent  
16 to Mr. David, I guess, beginning in 2015.

17 How often would you send him an e-mail during that  
18 period?

19 A Probably every second day, every third day. I wanted  
20 him to really wake up, to make a right. It's not right to  
21 take something that is not yours. It's not right to destroy  
22 people's reputation. It's not right to steal and go away  
23 and hide. If you do wrong, the honorable thing to do is to  
24 put your hand up and say, "I've done a wrong, and I  
25 apologize."



1 THE COURT: Next question, Counsel.

2 BY MR. TAYLOR:

3 Q Did you become aware that Tony was also sending him  
4 e-mails?

5 A Yes. Tony was aggrieved as well, and he was sending  
6 e-mails, yes.

7 Q Were you copied on Tony's e-mails?

8 A Yes, I was.

9 Q And then after you would receive an e-mail from Tony to  
10 Mr. David that you were copied on, did you forward to  
11 Mr. Dabab?

12 A That was the practice, yes.

13 Q What did Mr. Dabab do with it?

14 A After it got to Mr. Dabab, I wouldn't have a clue what  
15 he did with it. It's something that he managed, the  
16 website. The uploading, the posting, whatever.

17 Q The content of the website, was it comprised of  
18 anything other than the e-mails that we've been talking  
19 about?

20 A Not to my understanding, no.

21 Q What was your priority or focus in respect to the  
22 website?

23 A It was about telling my side of the story, and it was  
24 very important for me for whoever done the wrong thing by me  
25 and my family and Tony to, including Mr. David, to take

1 notice, take a moment, think about it, and hopefully they  
2 can make it right, because that's the right thing to do.

3 Q Did Mr. David ever respond to any of these e-mails?

4 A Never.

5 Q Did he ever send you a response or a correspondence  
6 asking you to stop sending these e-mails?

7 A Never.

8 Q Did any of these e-mails that you sent contain a threat  
9 of any kind to Mr. David?

10 A Never at all.

11 Q Let's take a look at Exhibit 43 in the binder.

12 A Can I take a sip of water, please. Sorry.

13 This binder here?

14 Q Yes. Forty-three.

15 A Yes, sir.

16 Q If you can just take a moment to flip through. It's a  
17 few pages.

18 Mr. Kazal, do you recognize the document we've  
19 marked as Exhibit 43?

20 A Yes, I do.

21 Q What is Exhibit 43?

22 A They're printout of the Kazalfamilytruth, the website  
23 created by Mr. David's staff at Thunder Studios.

24 Q Let's turn, if you would, to page 7633, at the bottom  
25 right, it's second to last page of the exhibit.

1 Oh, I'm sorry.

2 Your Honor, we'd like to move Exhibit 43 into  
3 evidence.

4 THE COURT: Any objection?

5 MR. WIENER: Your Honor, we'll object. There  
6 hasn't been a foundation as to when this was allegedly on  
7 Kazalfamilytruth.com.

8 On the bottom of the page, it indicates it's on  
9 Charifkazal.com.

10 We'd also object that there's no foundation for  
11 who created the website.

12 THE COURT: The objection is overruled. The  
13 document will be admitted.

14 (Exhibit 43 received in evidence.)

15 BY MR. TAYLOR:

16 Q Just looking at the bottom of the page, at the right --  
17 7633. Are you on the right page?

18 A Yes.

19 Q The pictures on the top half of the page are small, so  
20 I don't know if I can do that much to enlarge them, but do  
21 you see the 16 or so pictures on the top half of the page?

22 A Yeah. Yes, I do.

23 Q And do you see the picture in the top right corner?

24 A Yes, I do.

25 Q Who's that?

1 A It's my brother Tony.

2 Q And what does it say above his head?

3 A "Support Hezbollah."

4 Q Have you ever seen that picture before?

5 A Yes, it's What's App profile from Tony's profile.

6 Q From What's App?

7 A Yeah.

8 Q The chat --

9 A That's correct.

10 Q -- app?

11 A Yeah.

12 Q I assume -- is it fair to say on his profile picture,  
13 it doesn't have any words on it?

14 A Absolutely not. It's sickening to have such a  
15 description embedded on -- on your profile.

16 Q How did you first learn of the existence of these five  
17 websites we've been talking about, the Kazalfamilytruth,  
18 Charifkazal.com, Adamkazal.com, et cetera?

19 A I think my wife alerted me to them through some Google  
20 search. Said, "Oh, my God, look what's been put on you."  
21 And it was like horrific to see what's been put up there.

22 Q Do you see the picture right below the one we were just  
23 looking at?

24 A Yes.

25 Q Do you recognize the person in that picture?

1 A I believe is the late Libyan President Qaddafi.

2 Q You mentioned a few minutes ago that you have no  
3 association with Hezbollah.

4 Does anyone in your family have any connection  
5 with Hezbollah in any way?

6 A Absolutely not. Absolutely not. It's a disgrace and a  
7 despicable act to even refer us to be part or to be  
8 associated with these despicable people. This is dangerous,  
9 it's malicious, it's criminal to even do something like that  
10 to someone, to refer to such criminal people.

11 Q Did you -- when you first went to these websites, did  
12 you see the words on the page that associated your family  
13 with crime, and Hezbollah and things like that?

14 A Yes. And it's all untrue, all unfounded.

15 Q Did the association that you saw on these pages with  
16 crime and terrorism, did that cause you any concern?

17 A Absolutely. When something like this is in the public  
18 domain -- I mean, this is global. People worldwide -- we're  
19 business people. We travel internationally. We go, you  
20 know, to different companies. Stuff like this really puts  
21 your life at risk, puts your family's life at risk.

22 One of Tony's kids, he's an officer in the  
23 Australian Army, and a very up and coming officer, too. He  
24 had some terrible experiences as a result of this he had to  
25 deal with.

1           So to do such a criminal act. This is not a joke.  
2   You just can't do something like that. You have no idea the  
3   risk and the danger that it poses on the person and  
4   immediate family when you're labeled or connected to  
5   something like this. This is very, very, very damaging and  
6   very, very serious.

7   Q     Did any members of your family that you're aware of  
8   seek any treatment or counseling from the stress that  
9   resulted from these websites?

10   A     To this day, Tony's wife, Adam's wife, a number of the  
11   kids as I told you. A 13-year-old girl at school being  
12   bullied. She attempted self-harm. I mean, we could have  
13   lost her. This is how bad this is. Just unbelievable that  
14   someone could allow themselves or someone else to do something  
15   like this.

16           THE COURT: Why don't we take our morning recess.

17           Ladies and gentlemen, do not form or express any  
18   opinion about the case until the matter is finally submitted  
19   to you; don't talk with anyone about the case; don't allow  
20   anyone to talk to you about the case; and do not conduct any  
21   research of any kind on any subject matter connected with  
22   the case.

23           Why don't we come back at 11:15, please.

24           (Jury out.)

25           THE COURT: Sir, you may step down.

1 Mr. Taylor, I have a couple questions.

2 Is there a cross claim in this case?

3 MR. TAYLOR: No, there is not.

4 THE COURT: So I'm having trouble seeing the  
5 relevance as to all the emotional damage that the Kazal  
6 family has suffered as it relates to this case.

7 MR. TAYLOR: Well, we're done with that. I'm not  
8 going to ask him anything further about it. It puts in  
9 context what was done with respect to the website, why they  
10 sent the e-mails, why --

11 THE COURT: You spent a lot of time on this. So I  
12 guess you're saying it's over with, but I would just like to  
13 focus on what's at issue here.

14 MR. TAYLOR: I'm going to look at notes and the  
15 exhibits during this break.

16 How long does Your Honor --

17 THE COURT: It's not a function of that. I'm just  
18 trying to make sure I understand --

19 MR. TAYLOR: I think I'm nearly done with my  
20 direct examination.

21 THE COURT: We're starting to stray -- I mean, the  
22 testimony strayed on a lot of stuff. Clearly, there's a lot  
23 of lawsuits going on here. I don't want to deal with more  
24 lawsuits than I have to. That's all I'm suggesting.

25 MR. TAYLOR: I understand. I think we're nearly

1 through with the direct.

2 THE COURT: Then, who's next after this witness?

3 MR. TAYLOR: Next, we would call Mr. Woodward.

4 I mean, I don't know when Your Honor wants to hear  
5 our motion, but --

6 THE COURT: We'll do that probably during the  
7 lunch recess, or right around when we break for lunch.

8 And, then, Mr. Woodward, and then who?

9 MR. TAYLOR: Then, Mr. Parlato.

10 THE COURT: So we anticipate getting done sort of  
11 mid afternoon, sort of 2:00, 2:30?

12 MR. TAYLOR: I mean, Mr. Wiener could  
13 cross-examine Mr. Kazal for two hours, so I don't know.

14 THE COURT: That's not going to happen.

15 MR. TAYLOR: I mean, he has time, I guess, so I  
16 don't know how long he's going to do it.

17 THE COURT: That's not going to happen.

18 MR. TAYLOR: That's a good estimate, I think.

19 THE COURT: Again, I'll remind you, my intention  
20 is to try and get this matter to the jury today. So be  
21 prepared to close this afternoon.

22 Mr. Wiener, is there anything you wish to say?

23 MR. WIENER: No, Your Honor.

24 THE COURT: Let's take a brief recess. Thank you.

25 (Recess taken at 11:05 a.m.;



1 proceedings resumed at 11:23 a.m.)

2 THE COURT: Mr. Taylor. You may continue.

3 MR. TAYLOR: We have nothing further on direct.

4 THE COURT: All right. Mr. Kazal, why don't you  
5 resume the witness stand, please.

6 THE COURT: All right.

7

8 CROSS-EXAMINATION

9 BY MR. WIENER:

10 Q Mr. Kazal, have you ever gone by any other aliases?

11 A Please repeat your questions.

12 Q Have you ever gone by any other names or aliases?

13 A Many years ago, my birth name was Charif and my surname  
14 was Hussein, H-u-double-s-e-i-n.

15 Q In May 10, did you make a criminal complaint against  
16 Mr. David in the United Arab Emirates?

17 A Yes, I did.

18 Q Did you allege that he had embezzled money from  
19 Emergent Capital?

20 A Not from Emergent Capital, from the IPS facility  
21 management business in the UAE, yes.

22 Q Were any of those criminal allegations sustained by the  
23 UAE court?

24 A The court found that at the time Mr. David embezzled  
25 the money, the company hadn't been registered in the UAE

1 under UAE law, so they could not find as such.

2 Q So it's correct that none of the criminal allegations  
3 that you caused to be made against Mr. David were sustained?

4 A It wasn't --

5 Q Thank you.

6 A -- it was not registered at the time.

7 Q It's correct that the ICAC made a finding that you'd  
8 engaged in corrupt conduct?

9 A Yes, it did.

10 Q Thank you.

11 Did the ICAC also make a finding that you had  
12 given false and misleading evidence?

13 A Yes, it did.

14 Q Do you contend you're exonerated from those charges?

15 A Absolutely. The inspector of ICAC report to the  
16 Parliament at New South Wales dated the 20th of June 2017 --  
17 it's in evidence. You can look at it all -- it completely  
18 exonerated me. He found many flaws in the ICAC thesis.

19 He basically found that the commission of ICAC,  
20 David did and the commission itself, breached the act. And  
21 basically it was an abuse of power. The investigation or  
22 the inquiry into myself.

23 And, more importantly, he noted that ICAC did not  
24 find any wrongdoing or any evidence from doing before,  
25 during, or after the inquiry; hence, I am suing the

1 Independent Commission Against Corruption and former  
2 commissioner in the New South Wales Supreme Court. And I  
3 filed my case late last year.

4 Q Can you identify where, in this 89-page report which  
5 has been marked as Exhibit 42, there's a finding that you  
6 are factually innocent of the charges?

7 A The report itself goes into -- I think Mr. Taylor  
8 referred you to a number of paragraphs. I can't just sit  
9 here and look at them all, and he clearly referred you to  
10 what the inspector commented on the findings of ICAC, the  
11 referral of myself by ICAC to the DPP.

12 Q Is there a specific paragraph you would want the jury  
13 to read in order to support your contention that you were  
14 exonerated?

15 A Yes. I will get my attorney shortly to refer you to  
16 the pages. We have marked them all. And I'll get him to  
17 refer you to them shortly.

18 And this is a report that's been submitted to the  
19 New South Wales Parliament.

20 Q As we sit here at this moment, though, you're not able  
21 to identify the specific passage that exonerates you?

22 MR. TAYLOR: That's not his testimony, Your Honor.  
23 That's not what he's saying.

24 THE COURT: Overruled.

25

1 BY MR. WIENER:

2 Q Are you familiar with the website Kazalfamilystory.com?

3 A Yes, I do.

4 Q Did you arrange to have the website set up in 2013?

5 A With the help of a friend, yes.

6 Q What was the name of this friend?

7 A Joe Dabab.

8 Q How well did you know Mr. Dabab?

9 A I knew him reasonably well because he was a good friend  
10 of a friend of mine.

11 Q How many times had you met with Mr. Dabab prior to  
12 June 2013?

13 A Maybe a couple times casually, but I met him at a  
14 function with Ray in 2013, and we discussed the website.

15 Q It's correct that you take full responsibility for  
16 everything on the website?

17 A The website bears my true experience and my story, yes.

18 Q Do you know a person named Jean Ghalo?

19 A No, I don't.

20 Q I'd like you to turn to Exhibit 3 in the binder.

21 A Yes, sir.

22 Q I'll represent to you Exhibit 3 is a document produced  
23 by GoDaddy that lists the domain information for  
24 Kazalfamilystory.com.

25 Can you tell me who it lists as the registrant for

1 the website?

2 A Jean Ghalo.

3 Q Who does it list as the administrative contact for the  
4 website?

5 A Jean Ghalo.

6 Q Who does it list as the technical contact for the  
7 website?

8 A Jean Ghalo.

9 Q Who does it list as the billing contact?

10 A Jean Ghalo.

11 Q Do you see Joe Dabab's name anywhere on this page?

12 A No, I don't.

13 Q Do you know who Jean Ghalo is?

14 A I don't know.

15 Q Do you know if Jean Ghalo is an alias for Tony Kazal?

16 A Absolutely not.

17 Q Do you know why Joe Dabab's name is not on this  
18 document?

19 A I have no idea.

20 Q Do you know who paid the bills for maintaining the  
21 website?

22 A Joe looked after everything. He offered to help me and  
23 support me through this painful experience, and he did that.

24 Q Do you know why he didn't list himself as the billing  
25 contact?

1 A I don't know. He may have helpers. I don't know.

2 Q This person named Jean Ghalo, are they located in  
3 Lebanon?

4 A Yes.

5 Q How many e-mails did you post on Kazalfamilystory.com?

6 A It was -- the website in total was between mid 2013 to  
7 mid 2017, so I don't know exact number, no.

8 Q And you testified that you're responsible for putting  
9 up Tony's e-mails on the website by forwarding them to  
10 Joe Dabab?

11 A That was the practice. I was cc'd on them, and I would  
12 forward them to Joe, yes.

13 Q I'd like you to turn to Exhibit 37.

14 I'd like you to turn to Tony Kazal's Supplemental  
15 Responses to First Set of Special Interrogatories and look  
16 at Interrogatory Number 3, which was introduced in evidence  
17 last Thursday.

18 THE COURT: I'm sorry, Counsel. You said  
19 Exhibit 37?

20 MR. WIENER: Exhibit 37, which is three sets of  
21 interrogatory responses. And I'm only referring the witness  
22 to the one interrogatory that we read to the jury on  
23 Thursday afternoon, Interrogatory Number 3.

24 THE WITNESS: I think I'm on it, sir.

25

1 BY MR. WIENER:

2 Q Did Tony Kazal state that he used to send Joe Dabab a  
3 copy of what was sent to Rodric David or David Singh?

4 A Did he do what? Sorry.

5 Q This is Tony Kazal's response to Interrogatory  
6 Number 3. The interrogatory is: Identify all  
7 communications you made regarding plaintiffs between  
8 January 1st, 2013, and the present. And Tony Kazal wrote in  
9 response -- one section of his response: "I used to send  
10 Mr. Joe Dabab a copy of what was sent to Rodric David or  
11 David Singh," end quote?

12 A I'm not sure why he would say that because that wasn't  
13 the practice.

14 Q So that representation by Tony Kazal you believe is  
15 inaccurate?

16 A Could be inaccurate, yes.

17 Q Did you coordinate with Tony Kazal on the content of  
18 the post that you each made to the website?

19 A No, we were individually writing, voicing our  
20 grievances.

21 Q Would you agree that there's remarkable similarities  
22 between the grievances that you both chose to voice on the  
23 website?

24 A Yes, it's the same issue, I believe, what Mr. David did  
25 to Tony and myself. They're the same issues; hence, the

1 similarity, sir.

2 Q I'd like you to turn to Exhibit 31. And the document  
3 Bates-stamped Plaintiffs' 1873, which I'll read for the  
4 jury. It's --

5 A Just one sec. Sorry. Which one is it? Sorry, sir.

6 Q It's 1873. It's the fourth page of Exhibit 31.

7 A Yes, sir.

8 Q And I'll read the page, which is an e-mail from  
9 Tony Kazal. And it states: (Reading.)

10 I'll not rest until you repay what you stole,  
11 plus damages, apologize publicly for the lies you  
12 told and serve time in prison for the despicable  
13 crimes you committed against me and my family.

14 A What would you like me to do, sir?

15 Q I'm just reading that portion. I just want you to keep  
16 it fresh in your mind.

17 I'd now like you to turn to the document  
18 Bates-stamped 1895.

19 A It's in the same folder, sir?

20 Q Yes, I'd like you to read the last paragraph to the  
21 jury.

22 A Yes. (Reading.)

23 I will not rest until you repay what you  
24 stole, plus damages, apologize publicly for the  
25 lies you told and serve time in prison for the



1           despicable crimes you committed against me and my  
2           entire family.

3   Q     Is that the same exact phraseology that Tony Kazal  
4   used?

5   A     Very similar, yes.

6   Q     It's your testimony, though, you didn't coordinate with  
7   him on the content of the website?

8   A     Obviously, we have the same objective, to get Mr. David  
9   to admit to what he did wrong by us, return what he stole  
10   from us, apologize for it and for the crimes he committed to  
11   serve time in prison. I guess they're very similar, you  
12   know, issues we're venting, yes.

13   Q     And it's your contention, your statement that you'll  
14   not rest until Mr. David repays what he stole is not a  
15   threat of any sort?

16   A     I'm sorry. Sir, sorry?

17   Q     It's your contention that you never made any threats  
18   against Mr. David?

19   A     I have never made any threats.

20   Q     And it's your contention that telling him that you  
21   won't rest until he repays what he stole is not a threat?

22   A     Sir, I will repeat it. I will not rest lawfully until  
23   Mr. David returns what he stole from me, and I will not rest  
24   until he faces court for the damage he caused me and my  
25   entire family; hence, I am suing him in Australia. And he's

1 number one defendant in the case. I take action legally,  
2 sir. I don't threat anyone.

3 Q And what regard to taking actions legally -- you agree  
4 that the federal court of Australia made a finding that you  
5 were in civil contempt of that court?

6 A Of course, the federal court found me in civil  
7 contempt, but if you've read the judgment, you've looked at  
8 the situation and the issue at hand, you'll realize that  
9 His Honor Justice Sparrow made it very clear that this was a  
10 technical -- civil contempt due to me being in China, and  
11 there was a technical issue with the website. I could not  
12 remove certain material as requested by the Court, and I was  
13 two days late.

14 As hence, as soon as I returned to Australia, I  
15 removed everything and I complied with all the requirements.  
16 Hence, His Honor, Justice Spiram, accepted my testimony and  
17 found me only in civil contempt. Yes, I made a mistake, I  
18 put my hand up to it and apologized to the Court for the  
19 mistake that I did. I don't hide from myself mistakes, sir.

20 Q It's correct in order to be in contempt, you have to  
21 have violated an original court order; correct?

22 A I have not violated. It was a technical civil  
23 contempt. Please read the judgment and be very clear  
24 because you're misinforming the Court, sir.

25 Q We'll let the jury decide.

1 A Yes.

2 Q It's correct that photographs of Mr. David were  
3 published on Kazalfamilystory.com?

4 A I'm aware of them now as part of this lawsuit, yes.

5 Q It's correct that you're aware that there were certain  
6 copyright photographs, that you became aware of that in  
7 October 2016; correct?

8 A I was aware of a notice, a takedown notice which I  
9 forwarded to my attorney, to Mr. Ronald Richards, in  
10 California, yes.

11 Q Was Ronald Richards also acting as the attorney for  
12 Adam Kazal and Tony Kazal?

13 A It's my understanding that he was acting collectively  
14 for us against Thunder Studios and Rodric David for the  
15 imposter websites that they've created by stealing our  
16 identities and our name and defaming us online, yes.

17 Q Did you instruct Mr. Richards to take -- did you  
18 instruct whoever's operating the website to take down the  
19 photographs at issue in that notice?

20 A As soon as I knew, I told Joe, "Please, you need to  
21 comply," and I asked Mr. Richards to deal with it, yes.

22 Q Do you have any evidence that any of the photos were  
23 ever removed?

24 A I don't know which ones were at hand, sir.

25 Q Do you know if other copyrighted photographs were

1 continued to be published on the website after  
2 December 2016?

3 A I wasn't involved in the uploading or the management of  
4 the website. That was something Joe was handling, so I  
5 wouldn't know now. Sorry.

6 Q It's correct that you just testified earlier you're  
7 responsible for everything on the website.

8 A I stand by the comments, I stand by the commentary and  
9 the material that is being published on the website, yes.

10 Q Did you instruct this person, the supposed  
11 Mr. Joe Dabab, to transfer the hosting of the website from  
12 GoDaddy to Orange Website?

13 A I didn't instruct him to do any such a thing. He's a  
14 technical person in that space. I don't know what he does,  
15 no.

16 Q Did you become aware at some point that the website had  
17 been transferred to Orangewebsite.com?

18 A No, I didn't.

19 Q Is it your testimony that you took down the website in  
20 June of 2017 so you could pursue your options legally?

21 A I took down the websites in June 2017 after I received  
22 the inspector's report exonerating me of the damage that's  
23 being caused to me through the malicious ICAC inquiry. I  
24 felt I had reached the satisfactory conclusion, and  
25 obviously I was already taking legal actions against

1 Mr. David and others. It wasn't just because of that, no.

2 Q Why did you not pursue lawful actions prior?

3 A We are. I am, and I was pursuing legal actions prior.

4 Q It's correct that you contend the articles published in  
5 the Sydney Morning Herald were false and defamatory?

6 A Absolutely. And this is the finding of the inspector  
7 of ICAC: There were lies printed in the Sydney Morning  
8 Herald.

9 Q Did you sue the Sydney Morning Herald for defamation?

10 A Yes. My brother Tony sued them, and they apologized to  
11 him, and they paid him substantial amount of damages in --  
12 in January of 2018.

13 Q Do you have any evidence of that judgment?

14 A I can get my attorney to provide if necessary.

15 Q Was it produced in discovery?

16 A I'm not sure if it was.

17 And also my brother Oscar's currently suing them.  
18 It's been a foggy battle between him and the Sydney Morning  
19 Herald. Obviously, they can drag things out when they're in  
20 the wrong. But they've already apologized publicly. If you  
21 Google Tony Kazal, you see an apology from the Sydney  
22 Morning Herald to Tony Kazal online. You can do that right  
23 now if you want, sir.

24 Q I'll leave that to your attorney.

25 And it's your testimony that you had no

1 involvement with the California activities that took place  
2 against Mr. David?

3 A I had no involvement, no.

4 Q Do you condone the actions of your brother Adam Kazal  
5 with regard to those activities?

6 A I'm sorry, sir.

7 Q Do you condone the activities of your brother Adam with  
8 regard to those protests?

9 A I would protest differently, yes.

10 Q Did you ever offer an apology to Mr. David for what  
11 Adam did?

12 A That's something Adam did, nothing to do with me. And  
13 Adam had legitimate reason, to my understanding, because  
14 Mr. David's staff had stolen his identity and defamed him  
15 globally and called him a terrorist and associated him with  
16 a despicable organization such as Hezbollah.

17 Q When did Mr. David associate Adam Kazal with Hezbollah?

18 A If you would read the website, I think there was a  
19 photo of Adam with that print as well is my understanding.

20 Q In fact, it was the Sunday Morning Herald that reported  
21 that your brother Tony Kazal had ties to Hezbollah, wasn't  
22 it?

23 A The Sydney Morning Herald reported many lies. As I  
24 said to you, they've apologized to Tony, and they offered  
25 him a substantial amount of damages. And like the inspector

1 of ICAC had called it, they printed lies about me and my  
2 family. And there were only lies being printed by the  
3 Sydney Morning Herald and the only journalist, the cozy  
4 journalist of your client, Linton Besser, who was attacking  
5 my entire family at the behest of your client.

6 Q What proof do you have that Mr. David caused the Sydney  
7 Morning Herald to publish any articles?

8 A I have Mr. David's testimony at ICAC admitting to  
9 providing misleading information, admitting to providing a  
10 cropped photo to the Sydney Morning Herald and being told to  
11 stop lying while he was on oath at ICAC. This is all in the  
12 ICAC transcripts, sir. Please go to them and read them.

13 Q Have you introduced the ICAC transcript as evidence for  
14 the jury?

15 A I'll check with my attorney what he introduced.

16 Q Do you know where Adam got the money to fund the  
17 activities in California?

18 A I don't, no.

19 Q Is it correct that Adam is bankrupt?

20 A No, he's not actually. He was -- my understanding had  
21 some technical issue, but he's settled that, and he's no  
22 longer bankrupt.

23 Q Do you recall during what period of time Adam Kazal was  
24 an undischarged bankrupt?

25 A I don't know, no.

1 Q Do you recall if he was an undischarged bankrupt in  
2 2016?

3 A I don't know, no.

4 Q Were you aware if Adam Kazal conducted -- caused any  
5 surveillance to be conducted of the David family in October  
6 of 2016?

7 A I'm not aware, no.

8 Q You stated that Mr. David somehow stole the identity of  
9 Adam.

10 Can you explain what you're referring to?

11 A Referring to the imposter website created by  
12 Thunder Studios' staff: Mr. Price, Mr. Wells, Mr. Hatch and  
13 Mr. Kolesa, where they've stolen Adam's identity, my  
14 identity, Karl's identity, Tony's identify and defamed us  
15 globablly and associated us with despicable crimes.

16 Q How did you determine who created the website?

17 A The communication obtained under subpoena through my  
18 attorney's request proved that those four individuals are  
19 connected to the creation of those websites.

20 Q Have you presented any evidence to the jury, other than  
21 your testimony, that anyone at Thunder Studios created the  
22 website?

23 A I think Mr. Kolesa admitted that he was involved in the  
24 creation of the website while on oath here.

25 Q Is it correct that the website primarily consisted of



1 articles that were republished from the Sydney Morning  
2 Herald?

3 A Not just republished, regenerated, reprinted,  
4 reorganized, photos were stamped. A lot of despicable  
5 behavior portrayed on those articles. It just reflects the  
6 quality of the people associated with it.

7 Q Is it your contention that as a result of the website,  
8 you're entitled to take the actions that you did do?

9 A My actions were peaceful, were very harmless, and I was  
10 just telling my side of the story to pursue my right in  
11 protest at the behavior of Mr. David for me, my entire  
12 family. Peaceful, harmonious protest. That's it.

13 Q Why did you send the e-mails to employees of  
14 Thunder Studios?

15 A Obviously, to make sure that Mr. David was getting  
16 them. I wasn't sure if he was getting my e-mails or not.

17 Q Do you know an individual named Jamie Brown?

18 A I do, yes.

19 Q How do you know Jamie Brown?

20 A Look, a long time ago, I've known him, and he's a  
21 friend of my brother Oscar. I don't have much to do with  
22 him.

23 Q Did the ICAC report find that you and other members of  
24 your family had known Jamie Brown for several years?

25 A I believe there was a reference to this, yes.

1 Q Was that a true statement by the ICAC?

2 A Yes.

3 Q Do you know if Jamie Brown was involved in coordinating  
4 any of the campaign that took place in California?

5 A I don't know, no.

6 Q Did you ever make a post on Kazalfamilystory.com that,  
7 quote, "My brother Tony and I are proud of our actions," end  
8 quote?

9 A Possibly, yes.

10 Q What actions were you referring to?

11 A Taking legal actions against Mr. David and his  
12 employees.

13 Q And it's your contention that Mr. David somehow  
14 improperly obtained the proceeds from the sale of  
15 Global Renewables?

16 A Mr. David knows too well what he was involved in. The  
17 evidence in my possession now, and as part of my lawsuit in  
18 the breach of constructive trust against Mr. David and  
19 others, clearly demonstrate that Mr. David was working in  
20 contempt of court orders, was working behind the scenes with  
21 one of the biggest law firms to illegally draft motions and  
22 minutes of meetings to steal my shares and that of Tony, and  
23 to produce a third party that was known to him and Mr. Singh  
24 to take care of the valuable asset of the business whilst it  
25 was in liquidation, only to sell it two-and-a-half years

1 later, 50 percent of it, for 85 million.

2 Q How much raw capital did your company, KTC, put into  
3 Global Renewables?

4 A We put a lot. We put the contacts, we put the business  
5 opportunity in the UAE. My brother Tony -- my brother Karl  
6 put \$2.6 million in guaranties, a further \$600,000 in  
7 liquid. When you add it all up, it will be more than what  
8 Mr. David put.

9 Because also Mr. David knows too well what he did  
10 with respect to overcharging, and what respect to  
11 double-dipping with the finance of the company, and his  
12 refusal to give us any proper financials to determine what  
13 he spent.

14 Q It's correct, in total, KTC put in \$600,000 in liquid  
15 funds into Global Renewables?

16 A Of course, to save the business. Into Global  
17 Renewables, yes, 600,000.

18 Q And how much did it receive from the liquidation of the  
19 business?

20 A We received very little because the whole liquidation  
21 and the stripping out of the asset during the liquidation  
22 was a tactic applied by Mr. David and Mr. Singh to hurt  
23 KTC's interest in the liquidation.

24 And as I said, the evidence are overwhelming.  
25 Mr. David will soon learn all this evidence during that

1 court case.

2 Q Is it correct that KTC received liquidation  
3 distributions close to \$1.9 million?

4 A We received too little because Mr. David fraudulently  
5 fabricated the board minutes that he gave to the  
6 liquidators. These board minutes was only for IPS.  
7 Mr. David fraudulently fabricated the board minute for ECL  
8 to give him the right to sign contracts between himself and  
9 himself, and these board minutes are now being examined by  
10 experts to say that Mr. David copied two signatures from the  
11 IPS minute into the ECL minutes. And he will soon be facing  
12 the music about this in court.

13 Q Mr. Kazal, can you answer my question: Did KTC receive  
14 approximately \$1.9 million in the liquidation --

15 A Yes, yes, but this is not what we were going for.

16 Q That's correct, you essentially tripled your investment  
17 in Global Renewables?

18 A Not really. We have not tripled our investment. As I  
19 said to you, I brought a business opportunity to Emergent  
20 Capital with probably \$50- to \$60 million in the UAE that  
21 Mr. David was stripping out and double dipping into that  
22 caused a joint-venture partner to terminate because of his  
23 bad behavior. He caused the company a lot of harm and a lot  
24 of damage.

25 Q Where were you in October 26, 2016?

1 A October? Sorry?

2 Q I'm sorry. Where is that?

3 A Just repeat the date. I'm sorry. I missed it.

4 Q Towards the end of October, 2016.

5 A In Sydney, I guess.

6 Q Did you observe any of the vans or posters or signs  
7 with Mr. David's picture on them?

8 A No.

9 Q When did you first learn about those signs?

10 A It was something that my lawyer received because we had  
11 -- Adam and I had the same lawyer at the time. I believe  
12 something was sent from my lawyer.

13 Q Were you aware whether the signs directed viewers to  
14 [www.kazalfamilystory.com](http://www.kazalfamilystory.com)?

15 A Possibly.

16 Q Did you authorize Adam to include that portion of it?

17 A No, I didn't.

18 Q Did you tell him to remove the signs, to remove that  
19 reference from the signs?

20 A Adam and I were not on good talking terms, and Adam  
21 holds me very much responsible for the pain and the  
22 suffering Mr. David brought on my entire family.

23 Q Didn't Mr. Adam Kazal state that he is trying to avenge  
24 your family name?

25 A I'm not sure what you're referring to.

1 Q It's correct that he was referring people to the  
2 website?

3 A Possibly.

4 Q And it's correct that your testimony is that the  
5 website was to refute the allegations that were made against  
6 you?

7 A Absolutely.

8 Q So did you and Adam Kazal share a common purpose in  
9 that regard?

10 A I don't believe so. Adam had his reasons, and I had my  
11 reasons.

12 Q Do you also believe that employees of Thunder Studios  
13 stole your identity?

14 A Absolutely they did, and they've been sued for this.

15 Q Is that the same allegation that Adam Kazal made?

16 A They stole his identity and they've been sued for this  
17 as well.

18 Q Were you and Adam both plaintiffs in the same lawsuit?

19 A Yes, we are, and Tony as well.

20 Q Did you file a lawsuit in the Superior Court of  
21 California claiming that your -- online theft of your  
22 identities?

23 A That's something my attorney's managing up. I'm not  
24 sure the detail of what he found. You have to check with  
25 him.

1 Q Do you know if that lawsuit was dismissed?

2 A I'll have to check with my attorney. I think it was  
3 withdrawn, not dismissed. Because there was some technical  
4 issues, but with respect to redrafting the claim.

5 Q You testified that the photos, certain of the photos on  
6 Kazalfamilystory.com were taken from Google searches; is  
7 that correct?

8 A That's my understanding, yes.

9 Q Did you do those Google searches yourself?

10 A As I said in 2013, 2014, I would have Googled a couple  
11 images of Mr. David and sent on to Joe. And what he did  
12 after that, that's a matter for Joe. I wasn't involved in  
13 anything further.

14 Q Do you know if any of those photographs that you took  
15 from 2013 and 2014 from Google search were the ones that  
16 were part of Exhibit 31?

17 A I don't know. I can't recall.

18 Q Do you have any reason to dispute Paul Kolesa's  
19 testimony that the photographs at issue were taken in  
20 August 2015 or later?

21 A I'm not a technical person. I cannot deny or confirm  
22 what Mr. Kolesa said.

23 Q Did you ever seek a court injunction ordering the  
24 removal of the Kazalfamilytruth website?

25 A I'm not sure what my attorneys did or didn't. They

1 were doing a lot of things to stop this harm that's being  
2 caused to my family by Mr. David's staff. Yes, they did  
3 many actions to try and stop the harm that was directed at  
4 my family, yes.

5 Q Do you know if there was ever -- whether your attorneys  
6 ever specifically sought an order for the removal of the  
7 website?

8 A I know the websites are shut now since January 2018,  
9 but I'm not sure what was the implication of the injunction.

10 Q How many different lawsuits do you estimate that you've  
11 filed against Mr. David since 2009?

12 A There was definitely a lawsuit in the Cayman, there was  
13 definitely a lawsuit in the UAE, definitely a lawsuit here,  
14 and definitely now there are two lawsuits in Australia.  
15 That would be five.

16 Q Have any of the lawsuits resulted in a judgment for  
17 monetary damages against Mr. David?

18 A Yes. The lawsuit in Grand Cayman, the most important  
19 lawsuit of all, found Mr. David had breached his fiduciary  
20 duty as a director to the detriment of KTC's interest,  
21 reinstated our share holding to 50 percent and ordered costs  
22 against Mr. David.

23 But this sadly was after the event, because  
24 Mr. David, along with Mr. Singh, colluded to bring a third  
25 party to take out the cash count, the most valuable asset of



1 the business, from the liquidation with an offer of  
2 25 million against an offer for 30 million from us, only to  
3 learn, two-and-a-half years later, that 50 percent --  
4 50 percent of that company was sold for 85 million.

5 Q Are you aware of an article that was published in the  
6 Sydney Morning Herald that linked your brother Tony Kazal to  
7 Hezbollah?

8 A There were many malicious articles published in the  
9 Sydney Morning Herald about me and my family. And as I've  
10 indicated to you earlier, sir, the inspector of ICAC very  
11 clearly -- very clearly there were lies printed about me and  
12 my family.

13 And in January of 2018, the Sydney Morning Herald  
14 settled with my brother Tony and awarded him a substantial  
15 amount of damage and apologized publicly for him. It's  
16 online.

17 Q I'd like to show to you -- are you familiar with a  
18 March 16, 2013, article by Linton Besser entitled, "Two bags  
19 of money and a lot of trouble in Beirut"?

20 A I'm familiar with many lies and articles by  
21 Linton Besser. Absolutely.

22 MR. WIENER: I'll show this to the jury.

23 THE COURT: What exhibit is this?

24 MR. WIENER: It's Exhibit 39, Your Honor, which is  
25 a reprint of the article which was originally published on

1 March 16th, 2013.

2 THE COURT: I'm sorry, 39, has that been admitted  
3 into evidence?

4 MR. WIENER: It's not. The foundation has been  
5 laid. We would move it into evidence at this time,  
6 Your Honor.

7 THE COURT: Any objection to 39?

8 MR. TAYLOR: No, Your Honor.

9 THE COURT: All right. Thirty-nine will be  
10 admitted.

11 (Exhibit 39 received in evidence.)

12 BY MR. WIENER:

13 Q Does this article describe what's supposedly a covert  
14 money exchange between Tony Kazal and a member of Hezbollah?

15 A This article is a complete fabrication by  
16 Linton Besser, the mercenary journalist who was working to  
17 destroy my good name and that of my family at the behest of  
18 your client, Rodric David.

19 This is the bottom line. Following this article,  
20 I lodged a complaint against Linton Besser, and he was asked  
21 to leave the Sydney Morning Herald. Linton Besser is a  
22 corrupt journalist, Your Honor -- sir, just for the record,  
23 and has been clearly, clearly explained in the inspector's  
24 report. He refers to his articles only as lies.

25 Q Does this article claim that Tony Kazal transferred a

1 bag of money containing 370,000 pounds to a senior associate  
2 named Sida (ph.) of Hezbollah?

3 A It sounds like something that would be developed at  
4 your client's Thunder Studios movie. It just does not make  
5 sense to me. This is complete and outrageous defamatory and  
6 fabrication on behalf of Linton Besser to again hurt the  
7 good name of my family.

8 Just because my family is originally from Lebanon  
9 does not mean we are associated with Hezbollah.

10 Just for the record, I completely despise such an  
11 organization, me and my entire family. We are peaceful,  
12 loving, good Australians who stand for the law and order,  
13 who stand for the word of law. And we live and die for  
14 Australia. Our kids are serving in Australia's best  
15 interest in Australian Army.

16 Do you really think and believe that my brother  
17 Tony would associate himself with something like this? This  
18 is complete nonsense, sir. Complete nonsense.

19 Q Why is Tony not here to defend his good name?

20 A Because Tony had nothing to do with this case. He's  
21 just been lumped into this case.

22 Q Did you discuss with Tony whether this article was a  
23 fabrication?

24 A Absolutely. Just complete fabrication. Very wrong.  
25 Read the e-mails Mr. -- Tony -- my brother Tony wrote to

1 Linton Besser, and you'll see how he was calling him up on  
2 such despicable behavior. This is not journalism, this is  
3 terrorism on behalf of Linton Besser. Unacceptable.

4 Q Why is Adam Kazal not here?

5 A You can ask him. I don't know.

6 Q Did you ask him to come to the trial?

7 A I didn't ask him. He'll know what he needs to do.

8 Q Did you tell Adam that you were going to blame him  
9 entirely for the activities that took place in California?

10 A I'm not blaming him for anything. I'm taking  
11 responsibility for what happened. And what happened to Adam  
12 resulted in Adam's action. We are just defending our good  
13 name peacefully and within the realm of the law.

14 Q Did you discuss with Tony Kazal whether he had any  
15 involvement in the California activities?

16 A He had no involvement.

17 Q The jury was shown earlier a contract that listed him  
18 as the point of contact.

19 Did you discuss that with him?

20 A I did not, no.

21 Q Do you believe that your private investigator  
22 fabricated that contract?

23 A I don't know what's happened. I wasn't involved in  
24 this. I couldn't tell you.

25 MR. WIENER: I have nothing further subject to

1 recross examination.

2 THE COURT: All right. Redirect.

3

4 REDIRECT EXAMINATION

5 BY MR. TAYLOR:

6 Q Mr. Kazal, Mr. Wiener asked you a moment ago about your  
7 investigator.

8 Did you retain or hire an investigator here in  
9 California to do anything with respect to Mr. David?

10 A No, sir, no.

11 Q You said earlier that you protested.

12 Did you mean by writing the e-mails that we've  
13 seen?

14 A Yes. My -- my e-mails that were calling on Mr. David  
15 to make a right and take accountability for the damage and  
16 the harm he put on me, Tony, and that of my immediate  
17 family, including children and innocent ones of my family.

18 Q You said earlier that you take responsibility for the  
19 website.

20 Do you mean the content, the words on the page?

21 A The words, yes, the e-mails that I had sent to  
22 Mr. David or to the journalists, yes, I do.

23 Q You take responsibility for what was written on that  
24 website?

25 A Absolutely, yes.

1 MR. TAYLOR: I don't have anything further,  
2 Your Honor.

3 THE COURT: All right. Any recross?  
4

5 RECCROSS-EXAMINATION

6 BY MR. WIENER:

7 Q Mr. Kazal, at your deposition, did you testify that you  
8 took responsibility for everything on the website?

9 A I said for the e-mails, the material that I sent to  
10 Mr. David and to the journalist. That was my understanding  
11 of what I meant. Everything, yes.

12 Q So you're now claiming for the first time that by  
13 "everything," you didn't mean the photographs --

14 A No. I had nothing to do with the photographs. I made  
15 that very clear to you during my deposition, sir. You're  
16 putting words into my mouth, and I don't think that's  
17 appropriate.

18 Q You testified the word "everything" -- do you recall if  
19 in your deposition you attempted to qualify to just be the  
20 words?

21 A My understanding when I said "everything" was the  
22 e-mails that I had sent, and I don't shy away from that. Of  
23 course, I do take responsibilities for the e-mails I sent.  
24 They bear my signature, my name on the bottom of them, yes.

25 Q Did you instruct Mr. Dabab, after you received the

1 Digital Millenium Copyright Act complaint, to remove any and  
2 all photos from the website?

3 A I ask him he must comply with whatever complaint that  
4 was made, and I left it to him. He's a technical person,  
5 I'm not. I wouldn't know what to do with this.

6 Q Did you make any effort to verify that the photographs  
7 were removed from the website?

8 A My understanding that he complied with it. That's why  
9 I sent the complaint to Mr. Richards to ensure that  
10 Mr. Dabab was given the appropriate information to deal with  
11 this.

12 Q Did you review the website anytime after December 2016?

13 A No, not really.

14 Q You didn't look at Kazalfamilystory once between  
15 December 2016 and it's removal --

16 A I would have looked at it, but not in any great sense.  
17 I think I had to deal with some things in December '16,  
18 towards the end of December, just to remove some stuff from  
19 the website but not sure after that, no.

20 Q Did you make any specific efforts to ensure that  
21 photographs were removed?

22 A My understanding that Mr. Dabab have complied and there  
23 was no harm of what he had did because Mr. Richards gave him  
24 surety that it was fine. That was my understanding.

25 Q What was the basis for that understanding?

1 A Because I put Mr. Richards directly in contact with the  
2 complainant. He would have sent something back to Mr. Dabab  
3 to ensure that everything was fine. That was my  
4 understanding.

5 Q So it's your testimony that Mr. Richards was in direct  
6 contact with Mr. Dabab?

7 A Not in direct contact. He would have sent something to  
8 me to forward on, and whatever I received -- I can't recall  
9 now -- I would have sent on to Dabab.

10 Q Did you ever direct Mr. Dabab to remove all photos --

11 A I ask him. I did ask him to make sure he complies with  
12 whatever request was made, yes.

13 Q And do you have a copy of that request you made to  
14 Mr. Dabab?

15 A Look, I'll have to look at my e-mails to see if I can  
16 retrieve such a thing. If I do, I'll send it on.

17 Q Why is Mr. Dabab not here today?

18 A I don't think he was asked to be.

19 Q Is it correct he's in Lebanon?

20 A I don't know where he is. He travels a lot, so I  
21 wouldn't know where he is.

22 Q Did you ask him to come here and testify?

23 A No, I wasn't asked by my team to -- need to have him  
24 here, so...

25 MR. WIENER: Nothing further.



1 THE COURT: Mr. Taylor?

2 MR. TAYLOR: Nothing further, Your Honor.

3 THE COURT: All right. Thank you, sir. You may  
4 step down.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: I think this is probably a good time  
7 to take our lunch recess.

8 Ladies and gentlemen, do not form or express any  
9 opinion about the case until the matter is finally submitted  
10 to you, which I'm cautiously optimistic will be today --  
11 emphasis on "cautiously."

12 Do not talk with anyone about the case, don't  
13 allow anyone to talk to you about the case, and do not  
14 conduct any research of any kind on any subject matter  
15 connected with the case.

16 Let's have you come back at 1:15, please.

17 Thank you.

18 (Jury out.)

19 THE COURT: All right. Mr. Taylor, did you want  
20 to make your motion or further expound on your motion?

21 MR. TAYLOR: Yes, if I may, Your Honor.

22 The defendants would move for judgment as a matter  
23 of law under Rule 50(A) on both claims for relief in this  
24 case.

25 As the Court knows, the first claim for relief for

1 copyright infringement was asserted by Thunder Studios only  
2 against all three defendants in the case.

3 And the second claim for relief for stalking under  
4 Civil Code 1708.7 was asserted by plaintiff, Rodric David,  
5 only against all three defendants in the case.

6 So I'll address them separately, and I'll address  
7 each claim against each defendant.

8 First of all, with respect to the copyright claim,  
9 as to all defendants, we would move for judgment under the  
10 applicable statute of limitations, which is three years.

11 Mr. David testified under oath that he viewed the  
12 website, the Kazalfamilystory.com, for the first time in  
13 2013, and he saw photographs from Thunderstudios.com there.  
14 And this lawsuit was filed February 2017. So that's more  
15 than three years after Mr. David learned of the alleged  
16 infringement and so the claim is time-barred for that  
17 reason.

18 Separately, even if the claim were not  
19 time-barred, which I believe it is, with respect to  
20 defendants Adam Kazal and Tony Kazal, there was no evidence  
21 presented in plaintiffs' case of any infringement --  
22 infringing activity by either of them of any kind. Not  
23 direct infringement, not secondary infringement, not  
24 contributory infringement.

25 The evidence as to Defendant Adam Kazal was that

1 he put Kazalfamilystory.com on the bottom of the signs or  
2 placards. That doesn't mean he had anything to do with the  
3 content of the website, with the photographs that appeared  
4 on the website, with the management, ownership, control,  
5 et cetera. Anything to do with the website. He was aware  
6 of the website, and he put it on his banner. That was the  
7 extent of it.

8           There was no evidence presented that either  
9 Adam Kazal or Tony Kazal directly benefitted or profited in  
10 any way from the alleging infringing activity. There was no  
11 evidence that they were aware of it or somehow should have  
12 been aware of where the photographs came from or how they  
13 got there.

14           As Your Honor heard from not only Mr. Charif Kazal  
15 who's here but from the deposition excerpts that were read  
16 into the record, Adam Kazal and Tony Kazal had nothing to do  
17 with the website. Certainly not with respect to the layout  
18 of the photographs and things like that.

19           With respect to all defendants as well,  
20 Your Honor, on the copyright infringement claim, there was  
21 no evidence presented of any damage to the plaintiffs, no  
22 actual monetary damages, whatsoever.

23           And also with respect to any claim for statutory  
24 damages under the copyright act, the plaintiff also can't  
25 state a claim because it appears that most, if not all, of

1 the photographs were published before -- at least three  
2 months before the registration. The evidence, as we saw it,  
3 was not clear on exactly when the photographs appeared on  
4 the Kazalfamilystory website.

5 So for that additional reason, we would move for  
6 judgment on that claim as well.

7 Separately, with respect to Defendant  
8 Charif Kazal, under case authorities, including a case  
9 called *Poof Apparel* -- and I can get the exact cite if we  
10 need to do that right now -- there's an alleged pattern of  
11 infringing activity dating back to 2013.

12 So as that case explains, because of the spirit of  
13 the copyright act which wants to encourage people who own  
14 copyrighted material to register it in a timely fashion, you  
15 can't claim statutory damages after being aware of a pattern  
16 of infringement that goes on for years.

17 So for that additional reason, we would move for  
18 judgment on the copyright claim as well.

19 THE COURT: All right. Anything further on the  
20 stalking claims?

21 MR. TAYLOR: Yes. I haven't even gotten to that  
22 yet. But as far as copyright, that's the extent of the  
23 argument with respect to the first claim for relief.

24 THE COURT: So let's get to the second claim of  
25 relief.

1 MR. TAYLOR: Again, with respect to the second  
2 claim of relief for Mr. David, he's grouped all the  
3 defendants together, but I think the evidence showed that  
4 each defendant needs to be treated separately. There's no  
5 evidence that all of them, in any way, did the same thing.

6 With respect to Defendant Charif Kazal -- first of  
7 all, there was no evidence presented at all that he was  
8 involved in any way in the protest activity that took place  
9 here in California or, for that matter, that took place in  
10 Sydney, although that's not really part of this case.

11 The evidence with respect to Defendant  
12 Charif Kazal was that he sent a series of e-mails over the  
13 course of a year-plus to Mr. David which Mr. David testified  
14 he largely did not read most of them. He blocked the  
15 e-mails to his staff but allowed himself to continue  
16 receiving them, he reported the fact of receiving the  
17 e-mails to FBI, which apparently took little or no action in  
18 response, and he didn't complain of any stalking or any  
19 activity of the sort with respect to those e-mails. And he  
20 did not fear at all for his safety or his family's safety  
21 from those e-mails.

22 So with respect to Defendant Charif Kazal, you've  
23 got a bunch of e-mails and that forms the stalking claim.  
24 And I would argue as a matter of law that under those  
25 circumstances, there's no liability at all as to Defendant

1 Charif Kazal.

2 With respect to Defendant Tony Kazal, the --  
3 again, there was -- there was a series of e-mails that Tony  
4 authored. And for the same reason which I just explained  
5 for Defendant Charif Kazal, which I won't repeat, that  
6 conduct alone cannot constitute a stalking claim.

7 Now, with respect to the protest, we believe the  
8 evidence is pretty clear that Adam Kazal took matters into  
9 his own hands in arranging the protests.

10 With respect to the e-mail that was introduced  
11 between Mr. Fuentes of ICS and Mr. Brown, that was never --  
12 there is a reference to Tony Kazal and that e-mail was never  
13 sent to Mr. Tony Kazal. It's between Adam -- I'm sorry,  
14 between Jamie and Mr. Fuentes of ICS.

15 There's no evidence of a written contract, there's  
16 no evidence of any acceptance by Mr. Tony Kazal; and we  
17 would argue as a matter of law, it's not enough to conclude  
18 that Tony actually had any involvement, whatsoever, in the  
19 protests.

20 You heard from all of the defendants in this case  
21 that Adam was the one involved in arranging for the protest  
22 activity that took place here in California.

23 With respect to Defendant Adam Kazal, as I  
24 understand it, the claim for stalking is based on the fact  
25 that he made various tweets over a certain time period and

1 again the protest activity.

2 With respect to the tweets, apparently Mr. David  
3 would receive notifications on his phone that he had been  
4 tagged, or whatever the term is in Twitter language for  
5 having your name mentioned in a tweet. Those were not  
6 tweets that were sent directly to him, but they were posted  
7 in Mr. Adam's Kazal's Twitter feed.

8 And Mr. David testified that he received the  
9 notifications, he didn't necessarily read the tweet. He  
10 could have blocked the notifications, but he didn't; then at  
11 some point, I guess, he did.

12 Again, he didn't complain of any stalking. He  
13 didn't fear for his safety from those tweets which, I guess,  
14 took place over something of an extended period.

15 And as far as the protests go, Your Honor, even if  
16 there was any evidence that linked Charif Kazal and  
17 Tony Kazal to the protest with respect to the stalking claim  
18 as it's based on the presence of protestors here in  
19 Los Angeles in the neighborhood and outside the studio,  
20 those activities cannot form part of the pattern under  
21 1708.7 that constitutes a stalking claim because, under the  
22 statute, constitutionally protected activity is not part of  
23 the pattern.

24 So standing on the street holding signs and  
25 chanting is classic free-speech First Amendment activity,

1 Your Honor. If stalking could rest on a protest like that,  
2 then, frankly, any protest could give rise to a stalking  
3 claim. And we know that that's not the law and that's not  
4 the case. And that can't be. That doesn't make any sense.

5 With respect to any surveillance that was  
6 conducted of Mr. David -- and we do see videos -- the  
7 surveillance activity was conducted by ICS whose name we've  
8 seen in the agreement, the Exhibit 5, I believe. That  
9 activity was conducted by a licensed private investigator  
10 here in California.

11 Again, the Court, if you look at 1708.7, there's  
12 specific exception to activity conducted by a private  
13 investigator, licensed private investigator.

14 So if you break down the claim, both claims, but  
15 focusing just on stalking, if you break it down by its  
16 parts, if you break it down by defendant, we believe that  
17 judgment as a matter of law is appropriate because the  
18 plaintiffs have not and, indeed, I believe cannot prove all  
19 the elements of the claim as to all of the defendants.

20 THE COURT: All right. Thank you.

21 Mr. Wiener.

22 MR. WIENER: Your Honor, I'll address the  
23 arguments in the same order as opposing counsel.

24 There's no statute of limitations' issue here,  
25 Your Honor. The copyrighted works -- the certificates and



1 registrations were all copyrighted August 2015 or later,  
2 which is well within the three years statute of limitations  
3 for this lawsuit.

4 THE COURT: Even though there was a suggestion  
5 that they were posted earlier than the registration?

6 MR. WIENER: The testimony of Paul Kolesa which  
7 was not disputed by anyone is that the photographs were  
8 created -- it lists their date of publication. There would  
9 have been no practical way for the defendants to obtain the  
10 photographs before that date.

11 THE COURT: What do you mean by that?

12 MR. WIENER: The first time the photographs were  
13 published, according to the copyright registrations, were  
14 August 2015 or later.

15 THE COURT: They could have been taken earlier;  
16 correct?

17 MR. WIENER: No, they couldn't have. The only  
18 means of accessing them would have been to scrape them from  
19 Thunder Studios' website.

20 THE COURT: Okay. I'm a little lost on that, but  
21 go ahead. Go ahead.

22 MR. WIENER: It's our contention that all three  
23 defendants are responsible for the copyright infringement.  
24 Charif Kazal testified unequivocally at his deposition --  
25 and this was discussed during his cross-examination -- that

1 he was responsible for everything on the website, not just  
2 the words.

3 THE COURT: But that would apply to Charif, but  
4 what about the other two?

5 MR. WIENER: The other two defendants are  
6 responsible for contributory liability as they are aware of  
7 the website and help -- and the photographs on the website  
8 and helped promote it.

9 Tony Kazal. We believe the evidence suggests that  
10 he's directly responsible for having created the website.  
11 Regardless of whether the jury can make that finding, it's  
12 certainly clear that Tony Kazal posted e-mails on the  
13 website and contributed towards it.

14 Adam Kazal likewise also contributed to the  
15 website by promoting it on billboards and signs, and we  
16 contend that that does suffice for contributory liability.

17 THE COURT: Okay.

18 MR. WIENER: Defendants are not seeking actual  
19 damages, they are seeking statutory damages. Again,  
20 Mr. Kolesa -- all the exemplars of the website were from  
21 2017. And based on Mr. Kolesa's testimony, that's the first  
22 time that the specific copyrighted works were published on  
23 the website. That was after their date of registration.

24 The case Poof Apparel is --

25 THE COURT: I'm sorry?

1 MR. WIENER: Opposing counsel had mentioned a  
2 Ninth Circuit decision called *Derek Andrew versus Poof*  
3 *Apparel Corporation* has no application here. That's one  
4 where the copyrighted works were infringed before they were  
5 registered. Here, they're only infringed after their date  
6 of registration.

7 As for the stalking claim, it's -- all three  
8 defendants are clearly liable for stalking. The e-mails  
9 that were sent by each of the defendants were stalkings.  
10 They were clearly intended to harass Mr. David. There's  
11 really no dispute on that point. Regardless of whether the  
12 defendants thought they were setting forth their position,  
13 it's clear that their purpose, especially given that they  
14 are copied on members of Mr. David's work force at  
15 Thunder Studios, was intended to harass them. At the very  
16 least, that's a jury issue.

17 And as for the organization of the protests, the  
18 defendants have attempted to shift all the liability to  
19 Adam Kazal who is the insolvent brother. It's not  
20 surprising. It's also not legally justified, though.

21 The evidence, including Exhibit 20, which is the  
22 contract, clearly lists Tony Kazal as the point of contact.  
23 It shows him as receiving updates on the protest activities.

24 We'll also introduce further testimony from the  
25 private investigator who organized these protests about

1 Tony Kazal's involvement.

2 THE COURT: You said you will introduce testimony?

3 MR. WIENER: Right. The plaintiffs are calling  
4 Mark Woodward, the private investigator, as a witness in  
5 this case.

6 THE COURT: Help me understand. It seems to me  
7 the bigger issue as it relates to the stalking claim is  
8 Mr. Taylor's focus on the First Amendment issues of the  
9 protest and also the surveillance being conducted by a  
10 licensed private investigator and that being excepted in  
11 1708.

12 What's your response?

13 MR. WIENER: Your Honor, turn to the  
14 First Amendment issue. The defendants have not asserted a  
15 defense under the First Amendment. It's been waived.

16 THE COURT: Hold on. Hold on. Why do you say  
17 it's waived?

18 MR. WIENER: They expressly waived all their  
19 defenses in their pretrial memorandum of facts and law.  
20 Were not asserted.

21 THE COURT: Go ahead.

22 MR. WIENER: The second point -- and I'll be happy  
23 to provide authority for the Court -- is that all defendants  
24 are foreign citizens. They don't have protected First  
25 Amendment rights.

1           The third point -- and I can provide an authority  
2 for the Court.

3           THE COURT: I would ask you to do so, please. You  
4 don't have to do it now. You can do it after the lunch  
5 hour.

6           MR. WIENER: I do have the authority ready. I  
7 can.

8           THE COURT: Go ahead.

9           MR. WIENER: The authority is *United States versus*  
10 *Verdugo-Urquidez*, 494 U.S. 259265, where the Supreme Court  
11 held that the First Amendment reference to the people means  
12 that right belonging to the class of persons who are part of  
13 a national community or otherwise develop sufficient  
14 connection with this country to be considered part of that  
15 community.

16           The defendant's only connection with the  
17 United States here is that they conducted harassing  
18 activities. I hardly can imagine that that --

19           THE COURT: Wait a minute. Let me just push back.  
20 Number 1, I haven't read that case, but by the title, that  
21 suggests that's a criminal case. I could be wrong, and I'll  
22 look at the case.

23           But, secondly, you're telling me that if someone  
24 engages in activity that doesn't violate U.S. law, that  
25 could still constitute stalking in a civil case?

1 MR. WIENER: It could, Your Honor. But it's our  
2 contention that this was -- and I'll move that as my third  
3 point. I will address Your Honor's comment, but I did want  
4 to also provide a civil case authority, which is  
5 *DKT Memorial Fund Limited versus Agency for International*  
6 *Development*, 887 F.2d 275, pinpoint cite 283, which is a  
7 District of Columbia Circuit case, where the Court affirmed  
8 the district court's determination that, quote:

9 The interest in free speech and freedom of  
10 association of foreign nationals acting outside  
11 the border's jurisdiction and control of the  
12 United States do not fall within the interest  
13 protected by the First Amendment.

14 THE COURT: I'm sorry. If I understood you  
15 correctly you said, the freedom of association of foreign  
16 nationals acting outside of the border's jurisdiction and  
17 control of the United States.

18 MR. WIENER: Correct.

19 THE COURT: That would be a case where someone's  
20 acting outside of the United States?

21 MR. WIENER: Right.

22 THE COURT: So you're saying the inverse is here?

23 MR. WIENER: I'm not saying the inverse is here.  
24 What I'm saying is here you have defendants conducting a  
25 terror campaign from Australia or the Middle East, they

1 don't come to California, and they don't enjoy the  
2 protection of these borders.

3 THE COURT: Okay.

4 MR. WIENER: Finally, the First Amendment doesn't  
5 protect threats, and that is a well established body of law.  
6 The question for the Court to look at and a Ninth Circuit  
7 authority on this point is *Planned Parenthood of*  
8 *Columbia/Williamette versus American Coalition of Life*  
9 *Activists*, 244 F.3d 1007, where if a jury can find that  
10 speech frightened the recipient of it and constitutes a  
11 potential threat of bodily harm, then it is actionable, and  
12 it's not protected by the First Amendment.

13 Again, I submit that the Court need not reach that  
14 issue as the foreign defendants simply don't have a  
15 First Amendment right in this case.

16 Some other Ninth Circuit authority on the same  
17 point is *United States versus Orozco-Scintillian*, 903 F.2d  
18 1262, where the Ninth Circuit stated that a true threat  
19 where a reasonable person would foresee that the listener  
20 believed that he would be subjected to physical violence  
21 upon his person is unprotected by the First Amendment.

22 Here, you have testimony and evidence that  
23 Mr. David believed that both he and his family would be  
24 subjected to physical violence.

25 THE COURT: And the speech that you're focused on

1 in this case is what: The e-mails or the protests?

2 MR. WIENER: Adam Kazal e-mails saying that he's  
3 different than the rest of his family.

4 THE COURT: I get that. What about the protests?

5 MR. WIENER: The protests that were carried out at  
6 Thunder Studios. There was a security guard involved, and  
7 my client did testify that there was a concern. And also  
8 that was augmented by the fact that when the protestors --  
9 evidently, they weren't just obstructing cars. They were  
10 yelling obscenities, getting in faces and evidently --

11 THE COURT: Are you sure that that was the  
12 testimony: Yelling obscenities, getting in faces? I don't  
13 recall that, but --

14 MR. WIENER: One of the employees named Jacqueline  
15 and Carol was assaulted. It wasn't just words. They were  
16 shaken. These were people who were fearful.

17 Mr. David and his wife both testified that they  
18 purchased a security system. If they interpreted this as  
19 just words, they wouldn't have done that.

20 THE COURT: All right. We'll take our lunch  
21 recess.

22 I'll see you back at 1:15. Thank you.

23 (Thereupon, at 12:31 p.m., proceedings adjourned.)

24

25 -oOo-



CERTIFICATE

I hereby certify that pursuant to Section 753,  
Title 28, United States Code, the foregoing is a true and  
correct transcript of the stenographically reported  
proceedings held in the above-entitled matter and that the  
transcript format is in conformance with the regulations of  
the Judicial Conference of the United States.

Date: February 12, 2019

/s/ Lisa M. Gonzalez

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Lisa M. Gonzalez, U.S. Court Reporter  
CSR No. 5920

<b>BY MR. TAYLOR: [15]</b> 34/16 41/21 43/20 44/20 45/21 48/18 50/10 50/22 54/2 57/16 59/3 68/6 73/1 75/14 109/4 <b>BY MR. WIENER: [9]</b> 20/4 21/22 22/3 22/16 25/20 83/24 86/24 106/11 110/5 <b>MR. GEBELIN: [13]</b> 4/10 6/13 7/3 7/8 7/11 7/20 8/4 8/14 8/19 10/19 11/20 16/22 29/9 <b>MR. TAYLOR: [35]</b> 4/12 4/20 5/5 5/8 5/14 9/8 10/8 12/11 12/23 19/4 21/18 21/25 22/12 33/7 33/19 33/23 33/25 34/13 68/5 79/2 79/6 79/13 79/24 80/2 80/8 80/14 80/17 81/2 83/21 106/7 109/25 113/1 113/20 116/20 116/25 <b>MR. WIENER: [57]</b> 4/7 13/7 13/16 13/19 13/24 14/3 14/9 14/18 15/3 15/15 16/6 16/16 17/7 18/11 18/25 19/2 19/18 33/9 33/11 33/15 43/17 44/11 44/15 45/18 48/14 50/6 50/18 53/23 75/4 80/22 86/19 105/21 105/23 106/3 108/24 112/24 120/21 121/5 121/11 121/16 121/21 122/4 122/17 124/2 124/12 124/17 124/21 125/5 125/8 125/25 126/17 126/20 126/22 127/3 128/1 128/4 128/13 <b>THE CLERK: [4]</b> 4/3 19/21 19/23 34/8 <b>THE COURT: [123]</b> 4/17 5/3 5/6 5/10 6/9 6/25 7/7 7/10 7/17 8/1 8/13 8/17 8/21 9/15 10/17 11/1 12/2 12/21 13/3 13/15 13/18 13/22 13/25 14/5 14/12 14/23 15/7 15/18 16/9 16/20 17/5 17/10	<b>17/13 18/17 19/1 19/3 19/8</b> 19/13 19/20 20/1 21/20 22/1 22/14 25/7 25/10 25/17 29/11 33/8 33/10 33/12 33/17 33/21 33/24 34/4 34/12 41/20 42/16 43/19 44/13 44/18 45/20 48/11 48/17 50/9 50/20 53/22 53/25 57/15 59/2 68/2 72/25 75/3 75/11 78/15 78/24 79/3 79/10 79/16 80/1 80/5 80/9 80/13 80/16 80/23 81/1 81/3 81/5 83/23 86/17 105/22 106/1 106/6 106/8 109/1 110/2 112/25 113/2 113/5 113/18 116/18 116/23 120/19 121/3 121/10 121/14 121/19 122/2 122/16 124/1 124/5 124/15 124/20 125/2 125/7 125/18 126/13 126/18 126/21 127/2 127/24 128/3 128/10 128/19 <b>THE WITNESS: [9]</b> 19/25 22/2 25/9 25/16 34/6 34/10 42/18 86/23 113/4 <b>\$</b> \$1.9 [2] 100/3 100/14 \$1.9 million [2] 100/3 100/14 \$170 [1] 47/2 \$2 [1] 40/1 \$2.6 [1] 99/6 \$25 [3] 46/11 46/16 46/19 \$25 million [3] 46/11 46/16 46/19 \$3 [1] 53/20 \$3 million [1] 53/20 \$30 [4] 46/13 46/16 46/19 61/9 \$30 million [4] 46/13 46/16 46/19 61/9 \$4,000 [2] 33/5 33/6 \$40 [2] 39/13 40/3 \$40 million [1] 40/3 \$50 [1] 100/20 \$60 [1] 100/20	<b>\$600,000 [2]</b> 99/6 99/14 \$85 [2] 46/25 61/8 \$85 million [1] 61/8 , '16 [1] 111/17 '17 [2] 64/23 64/24 - -o0o [1] 4/3 -oOo [1] 128/25 / /s [1] 129/14 <b>0</b> 0.1 [4] 42/13 42/14 42/19 42/20 <b>1</b> 10 [5] 1/19 4/1 58/10 65/16 81/15 100 [1] 1/10 1007 [1] 127/9 106 [1] 3/20 109 [1] 3/13 11 [2] 5/10 6/21 110 [1] 3/13 113 [1] 3/4 11:05 [1] 80/25 11:15 [1] 78/23 11:23 [1] 81/1 12 [3] 30/3 38/20 129/12 1262 [1] 127/18 12:31 [2] 1/17 128/23 13 [1] 6/21 13-year-old [3] 52/6 52/7 78/11 15 [2] 16/18 30/17 15 percent [1] 40/20 16 [2] 75/21 105/18 16th [1] 106/1 17-871 [1] 4/4 17-CV-00871-AB [1] 1/8 1708 [1] 124/11 1708.7 [3] 114/4 119/21 120/11 18 months [1] 65/14
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